

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is made and entered into this _____ day of _____ 2021, at Pasay City, Philippines by and between:

The Department of Foreign Affairs ("DFA"), a cabinet agency of the Philippine Government created by virtue of Commonwealth Act No. 732 enacted on 3 July 1946, with its office address at 2330 Roxas Boulevard, Pasay City, through its Office of Strategic Communications and Research (OSCR), Cultural Diplomacy Division (CDD), hereinafter referred to as the "First Party" and duly represented by the Head of Procuring Entity (HOPE) Undersecretary Ernesto C. Abella;

and

PARA SA SINING COLLABORATORY, INC., a non-stock, non-profit artist collective with office address at 1091 Estrada St. Singalong, Manila, hereinafter referred to as "Second Party" and duly represented by its Corporate Treasurer Dinah Kerstin A. Pinto.

WITNESSETH

WHEREAS, the **FIRST PARTY**, through its Office of Public and Cultural Diplomacy conceptualized an online event entitled, "**Buwan ng Wika and National Heroes Day Commemoration: Hulagpos at Hulagway**" (hereinafter referred to as **THE PROJECT**).

WHEREAS, the **FIRST PARTY** conceptualized **THE PROJECT** pursuant to Proclamation 1041 declared by President Fidel Ramos that August will be National Language Month or "**Buwan ng Wika**." This is a proclamation declaring for one National Language, to honor the father of Filipino Language, and also to give value, importance and preservation of the Filipino Language.

WHEREAS, the **FIRST PARTY** adheres with the *Komisyon ng Wikang Filipino* to be one with the UNESCO International Decade of Indigenous Languages (IDL2022-2032) that supports the freedom of expression of the Indigenous Peoples, to have access to education, and active participation in promoting the Filipino language and helping preserve the Filipino heritage.

WHEREAS, **THE PROJECT** will help enrich the knowledge of the Filipinos and inspire them to strengthen the preservation of our culture.

WHEREAS, **THE PROJECT** will help strengthen the 5-point agenda of the *Komisyon ng Wikang Filipino* in preserving the Filipino language: (1) Rights; (2) Inclusion; (3) Ratification; (4) Partnership; and (5) Empowerment.

WHEREAS, **THE PROJECT** will be a tribute to the father of the Filipino Language Manuel L. Quezon and to commemorate the National Heroes Month.

WHEREAS, the **SECOND PARTY** is a non-stock, non-profit organization with the vision of "Building a Culture of Inclusion through Collaborative Art."

WHEREAS, the **SECOND PARTY** has been active since 2014 in creating platforms for collaboration among artists and cultural workers from different fields, such as musicians, songwriters, dancers, choreographers, filmmakers, writers, heritage advocates, theater practitioners, visual artists, directors, curators, programmers;

WHEREAS, the **SECOND PARTY** has been actively engaged in exhibition management, festival coordination, stage management, and other activities related to production management & the arts;

WHEREAS, the **FIRST PARTY** agrees to hire the services of the **SECOND PARTY** to collaborate with the artists identified by the **FIRST PARTY** who will provide the format and content of the performance poetry, and make available all online materials related thereto (the Project).

WHEREAS, the **SECOND PARTY** shall adhere to the pre-declared objective and goal of the **First Party** in performing the services.

WHEREAS, the **FIRST PARTY** shall own the rights of the video of the performances recorded by the artists hired.

WHEREAS, the **SECOND PARTY** warrants and represents that it possesses the qualifications, resources, necessary authority/licenses, and expertise to render services required by the **FIRST PARTY** under the terms and conditions specified herein;

NOW THEREFORE, for and in consideration of the foregoing premises, and covenants and undertaking herein below set forth, **the Parties** agree as follow:

1. SCOPE AND EFFECTIVITY

Section 1. Scope and Effectivity – The Parties hereby agree to enter into this Agreement upon its signing by both Parties, for the duration of the conduct of the production of the performance video and upon fulfillment of the Parties' undertakings herein, unless earlier terminated.

Section 2. Undertakings of the FIRST PARTY

FIRST PARTY shall be responsible for the following:

1. To pay the **SECOND PARTY** a service fee, inclusive of all government tax in the amount of **ONE HUNDRED THOUSAND PESOS ONLY (Php100,000.00)** to cover the cost of **THE PROJECT**.
2. To approve, based on the guidelines provided herein, the production schedule, work plan submitted by the **SECOND PARTY**.
3. To ensure all health protocols and prescribed safety guidelines for the location shoot are followed by the production crew. Any and all cost related to the such compliance and enforcement thereof shall be for the account of the **FIRST PARTY**.
4. To ensure that no part of the video is recorded, reproduced, transmitted or made available to the public without the prior written consent of the parties and that, where required, that the composer's prior consent to the recording has been obtained. This includes an obligation on the part of the **SECOND PARTY** to ensure that action is taken to prevent members of the audience from making unauthorized recordings on mobile telephones, tablets or other electronic devices.
5. To ensure that **THIRD PARTIES SUCH AS ADVERTISERS, EVENT SPONSORS**, shall not use the **FIRST PARTY** and the **SECOND PARTY AND ALL EXHIBITS INVOLVED** or likeness for the endorsement of any product or service without the written consent OF **ALL PARTIES INVOLVED**.

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Section 3. Undertakings of the SECOND PARTY.

1. Implement, manage, and facilitate the payment of the performers hired for the **PROJECT**.
2. Create a Production Management Team to coordinate and oversee the shooting of the video production.
3. Submit the profile of the poets and editor.
4. Submit the Program flow and the sequence of the video.
5. Attend scheduled meetings for updates and consultations with the **FIRST PARTY**.
6. Produce and present the first and subsequent drafts of the Video to the **FIRST PARTY** for review and comments.
7. Submit the final Video to the **FIRST PARTY** complete with editing, graphics, and color grading saved in a portable external hard drive, plus 3 separate copies in MP4 format and DCP format in flash drives with a 5-minute teaser will also be submitted.
8. Turn over all raw materials used for the production of the documentary that will be saved in a portable external hard drive.
9. Pay all the artist and editor hired for the production of the **PROJECT**.
10. Not to use for commercial purposes, the name, logo, or other identification of the **FIRST PARTY** without its prior consent and approval in accordance with the required specifications.
11. To immediately report to the **FIRST PARTY** in writing any problems encountered which may endanger or obstruct the implementation of this Agreement and its proposed solutions;
12. Submit all documents required for the processing of the payment.
13. Ensure that all materials used will be reasonably faithful to the concept, no advertising of products used, clothes worn, equipment used, location/venue used for the **PROJECT**.
14. Provide accurate, well researched curatorial information for the script of the **Project**.
15. Ensure that the songs, poetry used are original or protected under copyright laws, and permits were secured.
16. Make use of modern digital technology in shooting, editing, and transferring copies.
17. Ensure that the script, and poetry used are original and not plagiarized.
18. Cite or seek permission for photos, video that will be used in the **project**.
19. Ensure that the final Video submitted is par excellence.
20. The **SECOND PARTY** must be responsible for the conduct, discipline, and compliance with labor related matters of its staff hired, including members of the Production Management Team or production crew, and any other third party it deems necessary to contract, if any, and ensure that they shall comply with all relevant rules and regulations of the First Party, the Philippine Government, and the terms of this Agreement;
21. The **SECOND PARTY** shall furnish the **FIRST PARTY** with a copy of the list of names and other information as may be required, of the artists and editor hired.
22. The **SECOND PARTY** must comply with the standard health protocols of the IATF.
23. The **SECOND PARTY** must ensure all health protocols and prescribed safety guidelines for the location shoot are followed by the production crew.
24. The **SECOND PARTY** must ensure any and all cost related to the such compliance and enforcement thereof shall be for the account of the **SECOND PARTY**.
25. The parties agree that the intellectual property rights over any creative work or conceptualization arising out of this Agreement shall be owned exclusively by the **SECOND PARTY**; however, the **SECOND PARTY** shall license the use of the same in accordance with the purpose of this Agreement to the **FIRST PARTY** during the duration of the term of this Agreement.
26. The **SECOND PARTY** must assume all taxes, fees expenses, and costs arising out of or as a consequence of this Agreement

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.

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Section 5. Timeline and Deliverables — The **SECOND PARTY** shall deliver to the **FIRST PARTY**, the following expected output within the corresponding timeline provided. Any delay in the submission of the deliverables shall constitute a ground for termination of the Agreement, without prejudice to the **FIRST PARTY's** availment of any and all remedies available to it, unless otherwise agreed upon by the Parties in writing, or where such delay is due to force majeure or other justifiable reasons; provided that due written notice is given by the **SECOND PARTY** to the **FIRST PARTY**.

ACTIVITY	Date
Concept Meeting, Approval of Concept	30 July 2021
Submission to OFMS for CAF request	30 July 2021
Submission to UMAIER for SPPMP request	30 July 2021
Communicate with possible partners re Project	02 August 2021
Presentation of Suppliers	05 August 2021
Submission of Video and Teaser video for Approval	20 August 2021
Sending of Video to Editor	23 August 2021
Sending of Publication Materials to FSPs	25 August 2021
Submission of Final Video	28 August 2021
Online Streaming of Video	30 August 2021

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. Payments shall be made within thirty (30) calendar days upon receipt of the invoice with the following supporting documents:
 - a. PHILGEPS
 - b. BIR or Mayor's Permit
 - c. Income Tax Return
 - d. Billing Request (Original- Format provided by DFA)
 - e. Provisional Receipt (Original- Format provided by DFA)
 - f. Duly Signed and Notarized Contract
 - g. Curriculum Vitae of the Artist
 - h. Bank Details and TIN No.
2. The contract price, inclusive of all applicable taxes and other lawful charges amounts to **ONE HUNDRED THOUSAND PESOS (Php 100,000.00)**, with payment to be made in full payment.
3. The total amount above shall cover the professional fees of the following artists, production and related costs of the Project, materials, administration expenses, and all other costs, expenditures, charges, fees, and/or taxes, if any, in relation to the **PROJECT**.

NAME	AMOUNT
1. Dr. Michael M. Coroza	Php10,000.00
2. Dr. Victor Emmanuel Carmelo D. Nadera, Jr.	Php10,000.00
3. Ms. Florenda Pedro	Php10,000.00
4. Mr. John Jacob Cezar	Php10,000.00
5. Ms. Aminah Fernando Kunting	Php10,000.00
6. Mr. John Verlin Santos	Php10,000.00
7. Ms. Cindy A. Velasquez	Php10,000.00

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 - Top: A large signature, possibly "Christina...".
 - Middle: A signature, possibly "Edith".
 - Bottom: A signature, possibly "S. Ched...".
 - Further down: A signature, possibly "M...".

8. Ms. Ma. Rosalie A. Zerrudo	Php10,000.00
9. Mr. Rodelio I. Saway	Php10,000.00
10. Mr. Jon Steffan Ballesteros	Php10,000.00

4. 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.

III. NO EMPLOYEE-EMPLOYER RELATIONSHIP

Nothing in this Agreement shall be construed as establishing any agency, partnership joint venture, employer-employee, or any other joint relationship between the **FIRST PARTY** and its employees, staff, personnel, participants, agents, and representatives, on the one hand, and the **SECOND PARTY** and its employees, staff, personnel, participants, agents, and representatives, on the other. Neither is deemed to be an employee, agent, or representative of the other.

Each Party shall be responsible for the payment of wages, fees, salaries, allowances, expenses under applicable laws, and all other claims of their respective employees, staff, personnel, participants, agents, and representatives, as applicable.

IV. DISPUTE RESOLUTION

In the event of any dispute or difference that may arise between the **Parties** in connection with this Agreement or the interpretation and project of any of its provisions, the **Parties** shall exert their best efforts to amicably settle such dispute or difference. In the event that an amicable settlement cannot be achieved, the **Parties** agree to settle the matter with finality by submitting the same for arbitration which shall be conducted by one (1) arbitrator to be appointed by the President of PDRCI and in accordance with Philippine Dispute Resolution Center, Inc. (PDRCI) subsisting Rules. The arbitration proceedings, including all records, documents, pleadings, orders and judgments filed or rendered in pursuant thereto, shall be kept confidential. The seat and venue of arbitration shall be Pasay City, Metro Manila, Philippines. Nothing in this Agreement shall prevent the **FIRST PARTY** from applying to a court of a competent jurisdiction for provisional or interim measures or injunctive relief as may be necessary to safeguard the property or rights that are the subject matter of the dispute;

V. THIRD PARTY CONTRACTS

Any other contract or agreement entered into by the **SECOND PARTY** with 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 **FIRST PARTY** 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 Project.”;

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

The **SECOND PARTY** assigns to the **FIRST PARTY** all intellectual property rights pertaining to the **SECOND PARTY** on the Projects and related activities conducted by the **SECOND PARTY** pursuant to this Agreement. The **FIRST PARTY** shall have a license to use copies of

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Handwritten signature: Rodelio I. Saway

Handwritten signature: Jon Steffan Ballesteros

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the outputs of the Project in connection with the purpose for which they are prepared and produced, provided that the **SECOND PARTY** has been paid the full amount stated herein. No recording in whatever form of the Project or any such activity of the **SECOND PARTY** or portions thereof shall be reproduced or used in any form for any other purpose other than that stated in this Agreement, without the prior written consent of the **FIRST PARTY**;

Except for Clause I, Section 2, Item No.5, the **FIRST PARTY** owns all the copyright over the Project. The **FIRST PARTY** shall have a license to use copies of the outputs of the Project in connection with the purpose for which they are prepared and produced, provided that the **SECOND PARTY** has been paid the full amount stated herein. The **SECOND PARTY** shall keep all the moral rights over the Project on behalf of the creators;

VIII. TERMINATION /PRE-TERMINATION

This Agreement shall terminate upon: (i) Complete project by both Parties of their respective obligations under this Agreement; or (ii) upon mutual written agreement of the Parties; or (iii) Cancellation of the Project. Either Party may terminate this Agreement upon at least fifteen (15) days prior written notice to the other Party, without prejudice to the payment of accrued fees. Upon such termination, the **FIRST PARTY** shall have the right to take immediate possession and intellectual property rights of all data and materials pertaining to the Project and this Agreement, as far as practicable. Such transfer of possession and rights shall be at the sole expense of the **SECOND PARTY** if the latter deliberately, willfully, and capriciously fails to comply with the terms of this Agreement, without prejudice to the enforcement of procurement rules and regulations on pre-termination and available remedies;

IX. BINDING EFFECT/AUTHORIZATIONS.

The Parties agree that if any provision of this Agreement is judicially declared to be void, invalid or otherwise unenforceable, said provision shall not invalidate the remaining provisions thereof. The Parties shall, subject to their mutual agreement, promptly amend this Agreement and/or execute such additional documents as may be necessary to give legal effect to the void, invalid or unenforceable provision in a manner that, when taken with the remaining provisions, will achieve the intended purpose of the void, invalid, or otherwise unenforceable provision;

X. AMENDMENT.

Only a written instrument signed by both parties' duly authorized representatives shall modify, amend, or alter the terms and conditions of this Agreement;

XI. COUNTERPARTS.

The Agreement may be executed in counterparts, and all of those counterparts taken together shall constitute one and the same instrument, provided that, this Agreement shall not be effective unless both parties have executed its counterpart;

XII. SEVERABILITY.

The Parties agree that if any provision of this Agreement is judicially declared to be void, invalid or otherwise unenforceable, said provision shall not invalidate the remaining provisions thereof. The Parties shall, subject to their mutual agreement, promptly amend this Agreement and/or execute such additional documents as may be necessary to give legal effect to the void, invalid or unenforceable provision in a manner that, when taken with the remaining provisions, will achieve the intended purpose of the void, invalid, or otherwise unenforceable provision;

XIII. ENTIRE AGREEMENT.

This Agreement and all of its attachments constitute the entire understanding between the parties with respect to the subject matter hereof, and supersedes any and all prior understandings, arrangements, and agreements, oral and in writing, relating thereto;

Handwritten signatures and initials on the right margin, including a large signature at the top and initials 'APB' and 'S. Chhabra' below it.

XIV. FURTHER ACTS AND ASSURANCES.

Each of the parties agrees to execute and deliver all such further instruments, and to do and perform all such further acts and things, as shall be necessary or convenient to carry out the provisions of this Agreement;

XV. GOVERNING LAW.

This Agreement shall be deemed to have been made in and shall be governed by and construed in accordance with the laws of the Republic of the Philippines;

XVI. NON-WAIVER.

The failure of either party at any time to enforce any provision of this Agreement will in no way affect the right of such party thereafter to require the project of such provision by the other party. The waiver of any breach of any provision hereof will not be interpreted or held to be a waiver of any succeeding breach of the same provision, or as a waiver of the provision itself.

XVII. NON-SOLICITATION.

Neither party shall contract, entice, employ, directly or indirectly, any employee of the other Party or any of its affiliates throughout the effectivity of this Agreement, and for a period of six (6) months from (i) the termination of this Agreement, or (ii) the full payment of the Project and Other Related Fees, whichever is later;

XIX. LIMITATION OF LIABILITY

The Parties acknowledge and agree that each of the Party shall be solely liable for the acts, omissions, fault, negligence, fraud, misconduct, default or breach of this Agreement, or violation of any applicable law by, their respective employees, staff, personnel, participants, agents, and representatives, as applicable.

Each Party (including their respective employees, staff, personnel, participants, agents, and representatives, as applicable) ("Indemnifying Party") shall indemnify, save, and defend the other party (including their respective employees, staff, personnel, participants, agents, representatives as applicable) ("Indemnified Party") free and harmless from and against, any and all claims, demands, losses, damages, liabilities, fines, penalties, costs, charges, suits, actions, and liabilities ("claims") suffered or incurred by the Indemnified Party arising from or as result of: (i) any claim for personal or bodily injury, disease, illness, or death of any person whatsoever, or any damage or loss to any property, resulting from any act or omission of the Indemnifying Party; or (ii) any breach, fault, negligence, fraud, misconduct, or violation of applicable law, in the project of their respective obligations under this Agreement.

Notwithstanding the foregoing, nothing herein shall apply to any Claims in respect of which and to the extent that the Indemnified Party is otherwise compensated pursuant to any insurance or the like. Any liability arising under this Agreement shall survive the termination or expiration of this Agreement until its full settlement.

Neither Party shall be liable for any indirect, consequential, incidental, punitive or special damages or losses, whether or not such party has been advised of the possibility of the same.

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IN WITNESS THEREOF, the parties have read, understood, and agree to the terms and conditions under this Agreement, and have caused their duly authorized representatives to execute this Agreement, as of the date and place first above written.

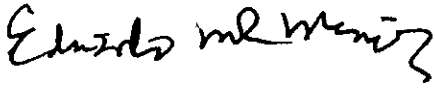


ERNESTO C. ABELLA
Head of the Procuring Entity (HOPE)
DEPARTMENT OF FOREIGN AFFAIRS

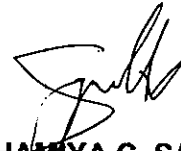


DINAH KERSTIN A. PINTO
Corporate Treasurer
Para Sa Sining Collaboratory, Inc.

Signed in the presence of:



EDUARDO MARTIN R. MEÑEZ
Assistant Secretary
Department of Foreign Affairs-OPCD
WITNESS



ARBY HAMIYA C. SAQUILABON
External Communications Cluster Head
Para Sa Sining Collaboratory, Inc.
WITNESS

ACKNOWLEDGMENT

Republic of the Philippines)
City of Pasay) s.s.

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

NAME	PASSPORT NO.	PLACE OF ISSUE	DATE OF ISSUE
ERNESTO C. ABELLA	P3609943A	DFA-MANILA	07 /07/2017
DINAH KERSTIN A. PINTO	P9159409A	DFA-MANILA	12 /10/2018

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 City, Philippines.

Doc. No. _____
Page No. _____
Book No. _____
Series of 2021.

