

**MEMORANDUM OF AGREEMENT
BETWEEN THE DEPARTMENT OF FOREIGN AFFAIRS (DFA)
AND SINEMATIKA, INC.**

KNOW ALL BY THESE PRESENTS:

This Agreement is made and entered into this 18th day of Oct. 2023 in the City of Pasay and between:

THE DEPARTMENT OF FOREIGN AFFAIRS (DFA), a National Government Agency with office address at 2330 Roxas Blvd., Pasay City, represented by **MR. ANTONIO A. MORALES**, Head of Procuring Entity (HOPE) and Undersecretary of the Office of Administration, hereinafter referred to as the **FIRST PARTY**;

- 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 Public and Cultural Diplomacy for the creation and production of the **DFA National Anthem Video Project** with principal address at GF Coco Center Building, 291 Dansalan St., Brgy. Barangka Ilaya, Mandaluyong, Philippines 1550, as presented in the Annual Income Tax Return of Sinematika, Inc. ("Annex "A");

Collectively referred to herein as the **Parties**.

WITNESSETH

WHEREAS, the Department of Foreign Affairs (DFA) will conceptualize the creation of the "**DFA National Anthem Video Project**";

WHEREAS, the **First Party** obtains the services of the **Second Party** in providing the institutional video during the aforementioned event;

WHEREAS, upon the recommendation of the Bids and Awards Committee (BAC) of the **First Party** as provided in BAC Resolution dated 18 Oct. 2023 (Annex "B") and made an integral part thereof, the **First Party** awarded the Memorandum of Agreement of the **Second Party**. Further, a copy of the Notice of Award is attached herewith (Annex "C") and made integral part thereof;

NOW, THEREFORE, for and in consideration of the foregoing premises and subject, to the terms and conditions set forth herein, the Parties have agreed as follows:

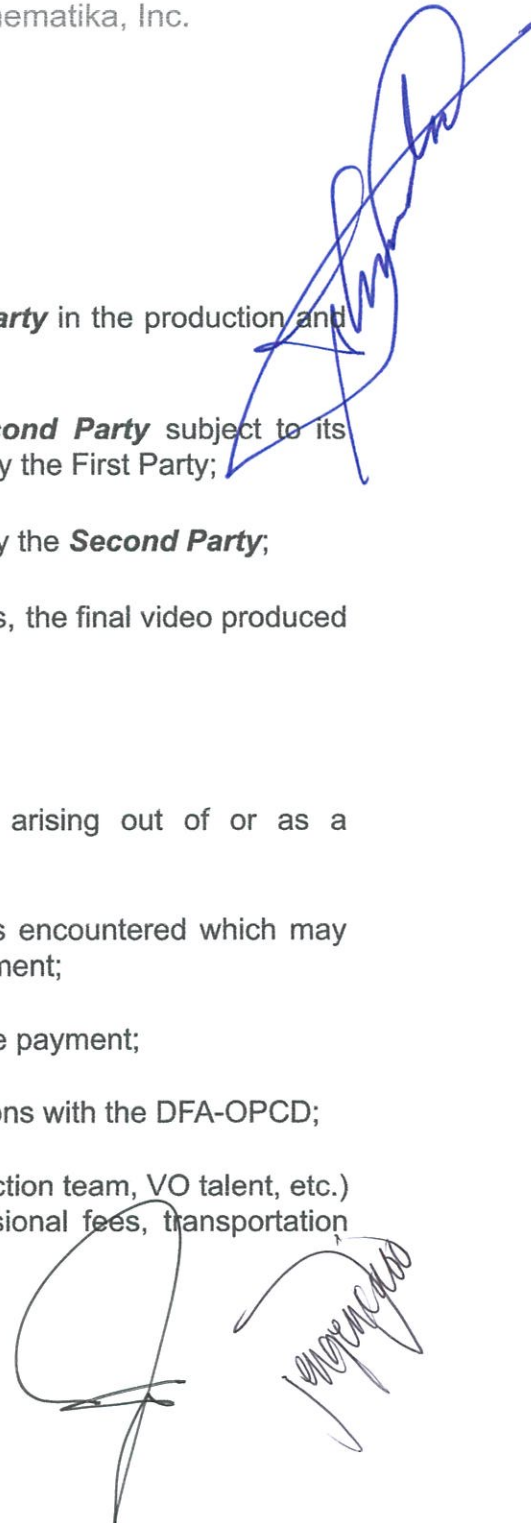


**ARTICLE I
PURPOSE OF THE AGREEMENT**

- A. This Agreement is entered into by and between Parties to provide the basis for their joint and cooperative undertakings with the **Second Party** in connection with the production of "DFA National Anthem Video Project" on 18 October 2023.
- B. The following are annexed to and made an integral part of this Agreement and references to these documents shall be deemed to refer to the ones duly annexed:
1. Annex D - PhilGEPS Registration;
 2. Annex E - Certificate of Availability of Funds;
 3. Annex F - Second Party's Proposal;
 4. Annex G - Mayor's Permit of the Second Party; and
 5. Annex H - 2023 Supplemental Project Procurement Management Plan.
 6. Annex I - Documentary proof that Mr. John Philip Y. Co has the authority to sign the MOA and transact for and on behalf of Sinematika, Inc.

**ARTICLE II
ROLES AND RESPONSIBILITIES**

1. The **First Party** shall perform the following tasks:
 - a. To provide guidance and assistance to the **Second Party** in the production and execution of the video project;
 - b. To review and approve the deliverables of the **Second Party** subject to its compliance of the Guidelines and as may be advised by the First Party;
 - c. To provide the full payment for the services rendered by the **Second Party**;
 - d. To broadcast and release on the official DFA platforms, the final video produced by the **Second Party**; and
2. The **Second Party** shall undertake the following:
 - a. To assume all taxes, fees, expenses, and costs arising out of or as a consequence of this Agreement;
 - b. To immediately report to DFA in writing any problems encountered which may endanger or obstruct the implementation of this Agreement;
 - c. Submit all documents required for the processing of the payment;
 - d. Attend scheduled meetings for updates and consultations with the DFA-OPCD;
 - e. Provide the necessary personnel (i.e. key staff, production team, VO talent, etc.) and be responsible for the payment of their professional fees, transportation

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- expenses, food, accommodations, and other costs that will be incurred for the production and execution of the video project;
- f. Procure the necessary technical equipment and software to be used in the production and execution of the video project;
 - g. Submit final videos (i.e. trailer video, music video, to DFA-OPCD complete with editing, graphics, and color grading): one (1) video with lyrics, one (1) video without lyrics.

ARTICLE III FEES AND PAYMENT SCHEDULE


1. For and in consideration of the services rendered, and to the satisfaction of the **First Party**, the latter shall pay the fee amounting to One Million, Two Hundred Ninety-Nine Thousand, Seven Hundred Forty-Eight Pesos and Eighty Centavos (PHP 1,299,748.80), inclusive of all applicable taxes, fees, licenses, permits and other lawful charges for the fulfillment of the obligation, to the **Second Party**. In no case shall the total payment to the Second Party exceed the Contract Price of PHP 1,299,748.80.
2. The Fee shall be made payable within thirty (30) days from receipt of invoice and complete supporting documents. Payment shall be made in accordance with applicable regulations for government payment of obligations upon submission of the **Second Party** of complete supporting documents to the Office of Public and Cultural Diplomacy (OPCD) and through List of Due and Demandable Accounts Payable (LDDAP).

ARTICLE IV MODE OF PAYMENT

1. Payment of the Performance Fee shall be through LDDAP made payable to "SINEMATIKA, INC." through the following bank details:

Account Name : SINEMATIKA INC
Savings Account Number : 001500003302
Bank : UNIONBANK OF THE PHILIPPINES
Branch : Libertad-Mandaluyong Branch, California Garden Square, Cluster El Dorado, A2 Domingo M. Guevara St., Mandaluyong City

2. The **Second Party** shall issue an official receipt for the payment made by the **First Party**. All payments shall be in accordance with government accounting, auditing budgeting and procurement laws, rules and regulations.



**ARTICLE V
CONFIDENTIALITY**

1. **Work Product.** The work product of the Second Party shall mean any and all tangible products, data, reports, information recorded by whatever means, documents, written materials, and any and all other work products, or any portion thereof, including drafts, prepared, generated, or provided by the Second Party in connection with the Second Party's performance of its obligations under this Agreement.
2. **Non-Public Information.** For purposes of this Agreement, all information that the First Party, its officers, assigns, or persons related therewith, provides to the Second Party; all information pertaining to the services performed by the Second Party; and all information regarding the First Party, its officers, employees and participants, including, without limitation, the identity of persons, shall be deemed and treated as strictly confidential, non-public information unless and until the First Party specifically authorizes the Second Party expressly in writing that any such information may be treated as public or as required by law, and only with the First Party's prior consent. The Second Party shall have no authority to disclose Non-Public Information to anyone in perpetuity, except in accordance with this section.
3. **Non-disclosure Agreement.** The Second Party shall not deliver, reveal, or report any Work Product or any Non-Public Information, obtained or created pursuant to this Agreement, to any person, corporation, or government, or any other public or private entity, without (i) express prior written permission of the First Party, or (ii) a court or administrative order requiring disclosure, provided that the Second Party shall immediately notify the First Party of any need for disclosure in writing; shall, in accordance with the First Party's direction, respond, appeal or challenge such subpoena, or court administrative order, prior to disclosure; and shall cooperate fully with the First Party in responding, appealing or challenging any such subpoena, or court or administrative order. Neither the Second Party nor its related entities shall disclose any Work Product or any non-Public Information to any person or entity, nor shall they use or allow the use of any Work Product or any Non-Public Information, to further any interest other than contemplated by this Agreement. The Second Party shall take appropriate measures to ensure the confidentiality and protection of all Work Product and all Non-Public Information and to prevent its intentional or unintentional disclosure, or its inappropriate use by the Second Party, its officers, or by its or their employees or related entities. This duty shall survive the expiration or termination of this Agreement in perpetuity.

**ARTICLE VI
MISCELLANEOUS PROVISIONS**

1. Neither party nor any of its officers, directors, managers, employees, agents, and representatives shall be liable to the other party or any of its officers, directors, managers, employees, agents, and representatives for any loss, liability, damage or expense arising out of or in connection with the performance of any services contemplated by this Agreement, unless such loss, liability, damage or expense shall be proven to result directly from the willful misconduct or negligence of such officer, director, manager, employee, agent, or representative.



2. Both Parties shall comply in all material respects with all applicable laws, rules, regulations, orders, and decrees of the Philippine government.
3. Any other contract or agreement entered into by Second Party and a third party for the implementation of this Agreement, shall be exclusively between such parties, to the exclusion of the First Party. 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 activity.
4. Nothing in this Agreement is intended or shall be deemed to create any employment, partnership, agency or joint venture relationship between the parties. The parties specifically acknowledge that the Second Party is an independent contractor and not an employee of the First Party, and that the First Party is not an employee of the Second Party. It is understood that no employer-employee relationship exists between the Parties, and their respective officers, employees, and representatives.
5. The Parties warrant that they have not assigned and will not assign to any third party, by operation of law or otherwise, any cause of action, obligation, or demand of any nature whatsoever relating to any matter covered by this Agreement, without written consent of the other.
6. The Parties shall exert their best efforts to amicably resolve and settle in good faith any dispute arising out of or in relation to this Agreement through negotiations. In the event that an amicable settlement cannot be achieved within thirty (30) days from the date on which either Party has served written notice thereof on the other party, the Parties agree to settle the matter by submitting the same for arbitration in accordance with the Philippine Dispute Resolution Center, Inc.'s (PDRCI) rules and regulations. 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, however, shall prevent the First Party from applying to a Philippine court of a competent jurisdiction for provisional or interim measures or injunctive relief as may be necessary to safeguard the property or rights as may be the subject matter of the dispute, or to pursue other legal remedies available to it provided the same shall be filed in the competent courts of Pasay City only, to the exclusion of other courts.
7. The performance of this Agreement by either party is subject to acts of God, war, government regulations, disaster, fire, strikes, civil disorder, or other similar cause or threat thereof beyond the abilities of the Parties, making it inadvisable, illegal, or impossible to perform to the terms of the agreement, hold the meeting, or provide the facility. This Agreement may be terminated or revised for any of the above reasons without incurring liability by written consent of both Parties.
8. This Agreement encapsulates the full agreement between the Parties, and any subsequent alteration, modification or amendment of this Agreement or any of its provisions shall be subject to mutual consent of both Parties and shall be made in writing.

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9. Nothing in this Agreement shall be construed as a waiver by the First Party of any of its privileges and immunities under Philippine law.
10. Either Party may terminate this Agreement with five (5) days' notice in writing for breach of any provisions of the Agreement.

**ARTICLE VII
COPYRIGHT AND INTELLECTUAL PROPERTY**

The First Party shall own the copyright, title, and interest, including all related Intellectual Property Rights, in and to the Work Product.

**ARTICLE VIII
EFFECTIVITY AND DURATION OF THE AGREEMENT**

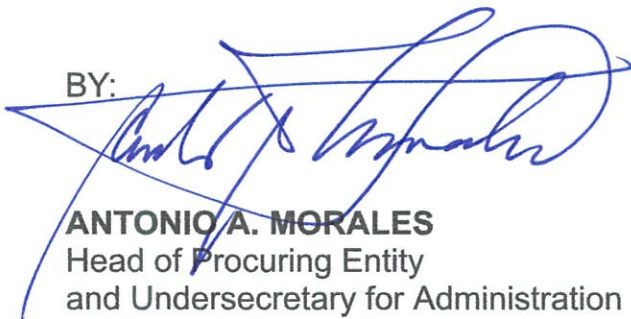
This MOA shall take effect upon signing by both Parties of this Agreement and shall remain effective until _____."

IN WITNESS WHEREOF, the parties hereto have signed these presents on this 18th day of October 2023 at the City of Pasay, Philippines.

DEPARTMENT OF FOREIGN AFFAIRS

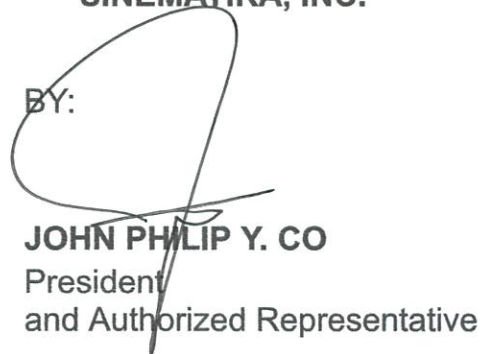
SINEMATIKA, INC.

BY:



ANTONIO A. MORALES
Head of Procuring Entity
and Undersecretary for Administration

BY:

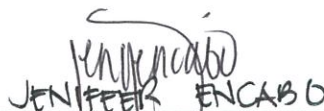


JOHN PHILIP Y. CO
President
and Authorized Representative

Signed in the Presence of:



ARVIN R. DE LEON
Assistant Secretary
DFA Office of Public and Cultural Diplomacy



Sinematika, Inc.

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

BEFORE ME, a **NOTARY PUBLIC** for and in the City of Pasay, Philippines, on _____, 2023 personally appeared **MR. ANTONIO A. MORALES**, Undersecretary of the Department of Foreign Affairs, and **MR. JOHN PHILIP Y. CO**, President and Authorized Representative of Sinematika, Inc., known to me to be the same persons who executed the foregoing **Memorandum of Agreement between the Department of Foreign Affairs and Sinematika, Inc.**, which instrument consists of 7 pages including the page on which this Acknowledgment is written, signed by said Parties and their witnesses, and who acknowledged to me that the same is their free and voluntary act and deed and of the entities they represent.

The Philippine Passport / Philippine Government-Issued Identification Documents of the Parties were exhibited to me, the same bearing:

Name	Gov't. ID	Issued At	Expiration Date
Antonio A. Morales	D0009237A	DFA MANILA	December 6, 2026
John Philip Y. Co	P9739203B	DFA NCR East	April 22, 2032

Both know to me are the same persons who executed the foregoing instrument referring to a Memorandum of Agreement consisting of 7 pages including this page on which the Acknowledgement is written, and acknowledged the same to be their free and voluntary act and deed and the entities they represent.

WITNESS MY HAND AND SEAL this 20th day of October 2023.

Doc. No. 396
 Page No. 81
 Book No. 38
 Series of 2023.

ATTY. IMELDA A. PANIS
 NOTARY PUBLIC Valid Until Dec. 31, 2023
 PTR NO. 0097589 Jan. 3, 2023
 IBP Lifetime Member No. 08365 Roll No. 52814
 MCLE No. VI-0029369 Nov. 11, 2022 Until 2025
 Commission No. 2019-082
 1091 N. Lopez St. Ermita, Manila
 09776885386