

## MEMORANDUM OF AGREEMENT

This **Memorandum of Agreement (Agreement)** is made and entered into in Manila, Philippines, this 10th of December, 2021, by and between:

The **Office of the Undersecretary for Multilateral Affairs and International Economic Relations (OUMAIER)** under the Department of Foreign Affairs (DFA), (hereinafter referred to as **DFA-OUMAIER**), a government office established pursuant to Executive Order (EO) No. 292 s. 1987, with present principal office address located at the DFA Building, Roxas Boulevard, Pasay City, Metro Manila, represented by its Undersecretary, **LOURDES O. YPARRAGUIRRE**,

The **FILM DEVELOPMENT COUNCIL OF THE PHILIPPINES (FDCP)**, a government agency organized and existing by virtue of Republic Act No. 9167, with present principal office address located at 855 T.M. Kalaw Street, Ermita, Manila, duly represented in this act by its Chairperson and Chief Executive Officer, **MARY LIZA B. DIÑO**;

and

**ABS-CBN Corporation (ABS-CBN)**, a corporation duly organized and existing under Philippine Laws, with present principal office address located at ELJCC Building, Mother Ignacia St. Corner Sgt. Esguerra Avenue Quezon City, duly represented in this act by its Head for ABS-CBN Film Archives and Restoration, **LEONARDO P. KATIGBAK** and Head for Comptrollership, **LORAIN F. ATIENZA**;

Collectively referred to as the **PARTIES**.

WITNESSETH

**WHEREAS**, by virtue of Section 3(3) of RA No. 9167, the FDCP has the power to establish, organize, operate, and maintain local and international film festivals, exhibitions and similar activities;

**WHEREAS**, in accordance with Section 3(4) of RA No. 9167, FDCP shall encourage and undertake activities that will promote the growth and development of the local film industry;

**WHEREAS**, as mandated under Section 3(9) of RA No. 9167, the FDCP has the power to invest funds and other assets in such activities or undertakings that shall directly and indirectly promote development of the film industry, including the production of films, and other terms and conditions as it may deem wise and desirable;

**WHEREAS**, the DFA, through the OUMAIER, under EO No. 292 s. 1987, is a government office entrusted to implement and coordinate policies and positions related to multilateral cooperation in trade and investments, tourism, science and technology,

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environment, and other economic concerns, as well as development cooperation with multilateral partners and international organizations;

**WHEREAS**, in response to RA No. 9710 or the Magna Carta of Women, the DFA-OUMAIER GAD Team will organize a film showing meant to spread gender sensitivity awareness as one of its projects for GAD;

**WHEREAS**, with respect to the DFA guidelines on the program expenditures which may be attributed to GAD and with the approval of the DFA-OUMAIER leadership, the GAD Team has determined that film screening is consistent with the aim of the Department to increase its capability in gender mainstreaming and promote a gender-responsive culture. Film screening, as an event or activity, possesses the dual role of an organization-focused project, activity or program (PAP) with a significant client-based element (with the client, in this case, being the film industry), which is harmonious and coherent with the DFA-OUMAIER's role as the head of the Economics Cluster of the DFA's GAD Focal Point System (GFPS), with certain presumed and specified functions that are economic in nature;

**WHEREAS**, in line with the established **Inter-Agency Partnership Program** of FDCP, the DFA-OUMAIER seeks to partner with FDCP to organize the film showing, and to feature and screen the herein identified film titles (**FILMS**), for a corresponding fee (as applicable);

**WHEREAS**, in support of this initiative, the FDCP agrees to assist the DFA-OUMAIER through facilitating the acquisition of the screening rights<sup>1</sup> over such FILMS;

**WHEREAS**, the PARTIES agree that no profit or revenue shall be generated from the film screening;

**WHEREAS**, for all intents and purposes, this **Agreement** shall only refer to the purposes described herein and shall not in any manner be construed as to form any other venture between the Parties; and

**NOW, THEREFORE, DFA-OUMAIER, FDCP, and ABS-CBN** warrant all foregoing premises and agree to undertake the following terms and conditions:

#### 1. FILM TITLES, PLATFORM, AND DURATION

The following FILMS shall be made available beginning **3 January 2022 until 16 January 2022** via **VIMEO** and **FDCP Channel** (as applicable) for free to DFA-OUMAIER-identified audiences only:

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- Restored and remastered film titles as produced by or rights held by ABS-CBN (hereinafter "**ABS-CBN Films**"):
  - (1) *KakabaKaba ka Ba?*
  - (2) *T-Bird at Ako*
  - (3) *Bata Bata...Paano Ka Ginawa?*

<sup>1</sup> Screening rights are rights pertaining to the license or authority to screen the film acquired or obtained from its producer for a certain sum of money and for a fixed duration.

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- (4) *Oro, Plata, Mata*
- (5) *Markova: Comfort Gay*

- *Portrait of a Lady on Fire* produced by **MK2 Films**
- Cinemarya film titles commissioned by FDCP (hereinafter "**FDCP Films**"):
  - (1) *Dad-aan Na*
  - (2) *She's Perfect*
  - (3) *Mga Ulap Tayong Nagiging Ulan*
  - (4) *Ang Bunga sa Tiyan ni Adam*

Should any of the aforementioned films be unavailable for screening on the scheduled date, the Parties shall consult and offer equivalent alternatives to the DFA-OUMAIER that are consistent with the objectives of the film screening, i.e. to spread gender sensitivity awareness.

## 2. RIGHTS AND OWNERSHIP

All intellectual and other property rights over the audiovisual material and content utilized in this Agreement shall be credited, protected and shall remain with the ABS-CBN, MK2 Films, and FDCP under existing applicable laws.

The Vimeo platform and FDCP Channel where the films will be screened are under the control and/or owned by the applicable PARTIES to the Agreement.

## 3. TERM

The term of this Agreement shall begin on the day the marketing collaterals have been made accessible to all PARTIES and shall end on the day that all necessary paperwork, including payments have been submitted and settled, which shall not be later than 100 days from the last day of the film screening. The timeline of the term is tentatively set from **10 December 2021 to 28 February 2022**, within which the dates of the actual film showing – **3 January 2022 to 16 January 2022** – has been scheduled.

## 4. RESPONSIBILITIES OF THE PARTIES

### A. The FDCP to:

1. Closely coordinate with the **PRODUCER**<sup>2</sup> in facilitating the acquisition of screening rights through its duly authorized officer(s) and for all matters relating to the conduct of the film screening
2. Provide DFA-OUMAIER access to *Portrait of a Lady on Fire* via the FDCP Channel (see attached **Booking Contract**) for a fee of Thirty-Five Thousand Pesos only (P35,000.00)
3. Facilitate the acquisition of screening rights to the ABS-CBN Films for a fee of One Hundred Sixty Thousand Pesos only (P160,000.00), upon

<sup>2</sup> The PRODUCER is an individual (filmmaker) or entity (production company) who/which funds the production of the film and has ownership rights over the film produced. In this Agreement, ABS-CBN Corporation, MK2 Films, FDCP and respective filmmakers of included Cinemarya films are the PRODUCERS.

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the transfer of funds by DFA-OUMAIER

4. Commit to the cross-promotion of the film screening, at its own expense.
5. Provide a certificate of deletion or destruction after the screening of the above-mentioned film titles in this agreement
6. Work closely with all the PARTIES in securing the files in combat of possible piracy or illegal distribution of the FILMS. The FDCP further warrants that it shall depute the Intellectual Property Office (IPOPHL) to assist in taking all necessary actions to prosecute and make accountable any person found in violation of unauthorized use and piracy of identified films titles herein
7. Appoint an FDCP officer to secure the necessary documents, financial or otherwise pertinent to this partnership

B. The DFA-OUMAIER to:

1. Facilitate the transfer to ABS-CBN Sagip Pelikula of One Hundred Sixty Thousand Pesos (P160,000.00) to cover the fee for screening rights over the ABS-CBN Films
2. Facilitate the transfer to FDCP of Thirty-Five Thousand Pesos (P35,000.00) to cover the fee for platform rights<sup>3</sup> over *Portrait of a Lady on Fire* produced by MK2 Films
3. Manage and facilitate the screening of the ABS-CBN Films and FDCP Films via VIMEO platform and the FDCP Channel
4. Manage and oversee registration of audience for the film screening
5. Designate an officer to monitor and keep record of audience turnout and engagement (as applicable)
6. Create all collaterals, marketing, and promotion of the film screening
7. Seek FDCP and ABS-CBN's approval before release of all materials created by DFA-OUMAIER for marketing and promotion of the film screening
8. Designate an officer to closely assist the PARTIES in reminding its identified audiences that the films are not for sale, reproduction, commercial use, and/or distribution, and can only be cited under fair use
9. Properly credit ABS-CBN Film Restoration and ensure that all images/clips of the ABS-CBN Films will carry the **ABS-CBN & Sagip Pelikula Logo** superimposed while the ABS-CBN Films are being shown during the film screening. The DFA-OUMAIER shall not remove or blur any of the logos from any material provided by ABS-CBN for the specified purpose
10. Properly credit FDCP for the *FDCP Films*. The DFA-OUMAIER shall not remove or blur any of the logos from any material provided by FDCP for the specified purpose
11. Promptly at the completion of the screenings of the *FDCP Films* and the *ABS-CBN Films*, to delete or destroy the materials containing the *FDCP Films* and the *ABS-CBN Films* from the system used and sign the

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<sup>3</sup> Platform rights are rights pertaining to the use or rent of virtual platform (i.e., Vimeo, FDCP Channel) for free or with charge based on the terms and conditions agreed upon between the platform owner, content owner, and third party (if any) to stream audiovisual contents or films.

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Certificate of Destruction that will be issued by the FDCP after the duration of the film screening

12. Designate an officer to coordinate closely with all PARTIES involved in this Agreement.
13. Ensure that it will acquire the necessary rights and authorizations to enable DFA-OUMAIER to lawfully remotely screen ABS-CBN Films, FDCP Films and *Portrait of a Lady on Fire* in accordance with this Agreement.

C. ABS-CBN to:

1. Commit to and ensure the remote screening of the ABS-CBN FILMS in consideration for the fee stated in this Agreement in close coordination with the FDCP and DFA-OUMAIER through their duly authorized officer(s)
2. Participate in the film screening event or talks, should there be any
3. Submit a signed copy of Official Receipt and/or Acknowledgement Receipt after receipt of licensing fee/screening fee
4. Free FDCP and DFA-OUMAIER from any claims of third parties over the ownership and/or possession, including the intellectual property rights, over the ABS-CBN FILMS
5. Deliver to DFA-OUMAIER a data file (1080p HD MP4/MOV or best possible resolution preferably with 5.1 Stereo Audio) of the FILMS on 20 December 2021 or at least 5 days before the scheduled screening of said ABS-CBN FILMS.
6. Provide FDCP with soft copies of marketing materials:
  - a. Film posters
  - b. Trailers
  - c. Stills
  - d. Film synopsis / Logline
  - e. And/or the following supplementary collaterals: clips of highlights, director's notes, and artcards, that the FDCP and DFA-OUMAIER can use in promoting and marketing the ABS-CBN FILMS
7. Provide a signed copy of this Agreement to FDCP at least seven (7) business days from signing.

D. The PARTIES agree that:

1. Should there occur any force majeure or similar condition which may delay or prevent the timely completion or fulfilment of this agreement and the attainment of its objectives, the party with knowledge thereof shall notify the other in writing, specifying the cause and its implications and consequences, to enable the other PARTIES to adopt remedial measures which shall be within one (1) days from written notice.
2. Notwithstanding the above provision, any substantial breach of the terms and conditions of this agreement if not cured by the Party or Parties causing the breach within a reasonable period or within the period provided by the Party/Parties notifying it/them of the breach, which should be given in writing, shall not preclude the affected Parties from exercising remedies available to them under this Agreement and

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under relevant laws.

3. Any agreement with a third party shall exclusively be between the Party and that third person, to the exclusion of the DFA-OUMAIER. The Parties engaging such third parties shall indemnify and hold the DFA-OUMAIER free and harmless from any and all claims or causes of action of third parties.

## 5. PAYMENT

The DFA-OUMAIER shall pay the following fees to the concerned Party, according to the following payment schedule:

FEE/ RIGHTS/ LICENSES (identify)	AMOUNT	PAYABLE TO	PAYMENT SCHEDULE
Screening rights	P160,000.00	ABS-CBN Corporation	15 days from the receipt of the fully signed MOA
Screening rights Platform rights	P35,000.00	FDCP	

The above payment/s shall be in accordance with government audit and accounting rules and regulations.

## 6. AMENDMENT AND WAIVER

The Parties may mutually agree upon any amendment of this Agreement. No amendment of this Agreement shall be valid unless the same is in writing and signed by all the PARTIES.

No waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the party making the waiver.

## 7. JURISDICTION

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

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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.


#### 8. EFFECTIVITY

This Agreement shall take effect immediately upon signing by the Parties and shall remain valid and binding within the **TERM** stipulated herein.

#### 9. SEPARABILITY

If any provision of this Memorandum of Agreement is declared contrary to law or unconstitutional by a competent authority, the other parts not covered by such declaration shall remain in full force and effect.

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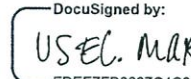


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IN WITNESS WHEREOF, the Parties, have affixed their signatures on the date and place herein above-mentioned:

<b>DEPARTMENT OF FOREIGN AFFAIRS</b>	<b>FILM DEVELOPMENT COUNCIL OF THE PHILIPPINES</b>
<p>DocuSigned by:                B77F823BFCA04E4...  <b>USEC. LOURDES O. YPARRAGUIRRE</b>              Undersecretary</p>	<p>DocuSigned by:                FDEE7FB0607C4C3...  <b>USEC. MARY LIZA B. DIÑO</b>              Chairperson and CEO</p>
<b>[PRODUCER]</b>	
<p>DocuSigned by:                77C06E86B0104C9...  <b>LEONARDO P. KATIGBAK</b>              Head for ABS-CBN Film Archives and Restoration</p> <p>DocuSigned by:                732C379B84DD4F9...  <b>LORRAINE F. ATIENZA</b>              Head, Comptrollership</p>	

Signed in the presence of:

<p>DocuSigned by:                3439D17BCA0948A...  <b>MARIA LOUELLA DUARTE</b>              GAD Focal Point Officer for OUMAIER                OIER</p>	<p>DocuSigned by:                978B71D07DE34A4...  <b>RIA ANNE RUBIA</b>              Executive Director III</p>
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 City of Manila )  
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### ACKNOWLEDGEMENT

Before me, a Notary Public for and in the City of Manila, this 23 day of MAR 2022, 2021, personally appeared:

NAME	ID NO.   DATE AND PLACE OF ISSUANCE
Usec. Lourdes O. Yparraguirre	Passport: D0005218A   28 January 2020, DFA Manila
Usec. Mary Liza B. Diño	Passport: P6373620B   24 February 2021, DFA Manila
Mr. Leonardo P. Katigbak	Passport: P5616489A   16 January 2018, DFA Manila

both known to me to be the same persons who executed this Memorandum of Agreement, consisting of nine ( 9 ) pages, and that they acknowledged to me that the same is their voluntary act and that of the legal entities herein represented.

WITNESS MY HAND AND SEAL at the place and on the date above written

**ATTY. ABIGAIL AZPARRAGA-PORTUGAL**  
 Notary Public  
 NOTARY PUBLIC UNTIL DEC 31, 2022  
 COMMISSION NO. 117-2021  
 IBP No. 132403 / PABIG / 11-10-20 UNTIL DEC. 2022  
 PTR No. 2906202 / 01-03-2022 / PARANAQUE CITY  
 ROLL No. 45535 / MAY 10, 2021 / PPLM  
 MCLE VI-0019672 VALID UNTIL APRIL 14, 2022  
 MILLENIUM ONE BLDG.  
 SAN ANTONIO VALLEY, PARANAQUE CITY  
 CP No. 0905-481-7344

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