

## MEMORANDUM OF AGREEMENT

### KNOW ALL PERSONS BY THESE PRESENTS:

This Memorandum of Agreement (MOA) is made and entered into this day of  
20 November 2024 2024, at Pasay City, Philippines, by and between:

The **DEPARTMENT OF FOREIGN AFFAIRS**, (hereinafter referred to as the **"FIRST PARTY"**) a national government agency with principal address at 2330 Roxas Boulevard, Pasay City, Metro Manila, Philippines, represented by Head of Procuring Entity (HOPE) and Undersecretary for Administration, **MR. ANTONIO A. MORALES**,

and

**SINEMATIKA, INC.**, represented by its President, **Mr. John Philip Y. Co**, (hereinafter referred to as the **"SECOND PARTY"**), with principal address at GF., Coco Center Building, 291 Dansalan St., Brgy. Barangka Ilaya, Mandaluyong City, for the production and implementation of the project "Moving and Melodies: DFA's Tribute to 2330."

Collectively referred to herein as the **"PARTIES"**

### WITNESSETH

**WHEREAS**, the **First Party**, through its Office of Cultural Diplomacy (OCD), will launch an event entitled, **"Moving and Melodies: DFA's Tribute to 2330"** (DFA's Tribute to 2330: Our Farewell Serenade with the Maestro), a piano concert that will honor the DFA's principal address at 2330, which served as its home for 33 years;

**WHEREAS**, the **First Party** will obtain the services of the **Second Party** to conceptualize the event's programme, visual output, theme, venue and stage set-up, recording, and other artistic elements for a production of a musical concert;

**WHEREAS**, the **Second Party** shall produce the performances for the event based on the **First Party's** desired performers;

**WHEREAS**, The concert will be held onsite on 04 December 2024 at the Bulwagang Apolinario Mabini (BAM), DFA Building, Pasay City.

**WHEREAS**, upon the recommendation of the Bids and Awards Committee (BAC) of the **First Party** as provided in BAC Resolution dated 20 November 2024 (**Annex "A"**) and made an integral part hereof, the **First Party** awarded the Notice of Award (NOA) and Notice to Proceed (NTP) to the **Second Party**. Further, a copy of the NOA and NTP is attached herewith (**Annex "B" and "C" respectively**) and made an integral part hereof;

**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

**Section 1:** This MOA is entered into by and between Parties to provide the basis for their joint and cooperative undertakings pursuant to the **First Party's** objective in celebrating the milestones of DFA and paying homage to its historic building.

**Section 2:** The following are annexed to and made an integral part of this MOA and references to these documents shall be deemed to refer to the ones duly annexed:

- a. Annex A - BAC Resolution
- b. Annex B - Notice of Award
- c. Annex C - Notice to Proceed
- d. Annex D - Terms of Reference

## ARTICLE II ROLES AND RESPONSIBILITIES

**Section 1.** The **First Party** shall perform the following tasks:

- a. Instruct and guide the Second Party on the submission of requirements;
- b. Provide administrative and coordination support as and when needed;
- c. Schedule coordination and alignment meetings, as and when needed;
- d. Review and approve deliverables of the Second Party subject to compliance with the Terms and Conditions of this MOA and technical specifications under the Terms of Reference, or as may be advised by the First Party;
- e. Process the payments and settle the contract price for the services rendered and deliverables submitted by the Second Party, in accordance with Article IV of this MOA;
- f. Release on official platforms of the First Party the final visual outputs and deliverables produced by the Second Party.

**Section 2.** The **Second Party** shall perform the following tasks:

### I. Collaterals

1. Create and produce the event's collaterals, from social media publication materials to onsite hard materials such as brochures, concert signages and standees.
2. Provide the crew, such as but not limited to production staff directors, stage managers and production team that will plan, design, and build the event's overall setup and manage the successful holding of the event from beginning until its conclusion (including ushers and registration).
3. Handle live streaming of the event;
4. Handle the recording of the musical performances;
5. Ensure smooth production of the event before, during, and after the project.

### I. Pre-production

1. Prepare a comprehensive budget and/or quotation that outlines projected costs for all aspects of the event, including contingencies within DFA's Approved Budget Contract (ABC).
2. Develop a comprehensive project concept note and program outline including the event's overall setup and design, actual event management and post production.

3. Design and produce event souvenirs that reflect the concert's theme
4. Act as a liaison between DFA-OCD and performers to coordinate schedules, technical requirements, programme and other logistical needs.
5. Design and submit the event's collaterals such as but not limited to brochures, posters, teaser video, and post event recap video.
6. Create a detailed logistical plan that includes venue setup, sound and lighting requirements, crew assignment and movements and transportation arrangements for performers.
7. Provide names of project coordinators in the following areas:
  - a. Focal person for production of souvenirs and event's collateral;
  - b. Focal person for the concert's technical support. (i.e. lighting designer, sound engineer, stage manager, production assistant, video technician, props and set designer);
  - c. Focal person for stage preparation and design;
  - d. Focal person for the event's catering; and
  - e. Focal person for ushers and registration.
8. Ensure adequate arrangements for food and beverage for performers, staff, security personnel and attendees.

## II. Production

1. Install a high-quality lighting and sound system, complete with all necessary equipment. Incorporate visual and contextual elements to enhance the concert experience.
2. Set up the stage and include in the design the registration and food area for optimal flow and accessibility.
3. Set up the catering area and food, as well as the registration area (e.g. a welcome area/decor, photo booth/background).
4. Deliver the approved event collaterals and souvenirs to DFA-OCD a week before the event
5. Ensure attendance of the coordinators and crews/personnel during the event.
6. Oversee the overall flow of the event based on the approved proposed program.

## III. Post Production

1. Submit photo documentation and video recap of the concert.
2. Ensure the stage setup and other preparations are cleaned, leaving no rubbish in the venue.
3. Ensure payment of the artists.

**Section 3. Guidelines.** The Parties shall be guided by the following in implementing the project:

- a. Ensure that all materials used are faithful to the concept;
- b. Make use of modern high-quality digital technology in shooting, editing, and transferring copies;
- c. Ensure that the script and other artistic creations are original and not plagiarized or subject to intellectual property challenge or dispute; and
- d. Ensure that the final videos and visual outputs submitted are par excellence.
- e. Ensure that tangible outputs are not damaged;

## ARTICLE III TIMELINE OF DELIVERY

**Section 1.** The Second Party shall submit the following deliverables to the First Party, which shall be subjected to the vetting and approval of the First Party, as follows:

Submission of the comprehensive project concept note and program outline	<b>November 2024 (3rd week)</b>
Delivery of the event's collateral and souvenir; completion of the stage, food catering, food and registration areas; setup with lights and sounds; and overall venue design/decor.	<b>November 2024 (4th week)</b>
Submission of the photo and video collaterals of the event; submission of the post-event highlights	<b>December 2024 (2nd-3rd week)</b>

**Section 2.** The deliverables must be made in accordance with the signed Terms of Reference (TOR) (**Annex "D"**) which was signed by the **Second Party** and was submitted to the **First Party**.

**ARTICLE IV  
TERMS OF PAYMENT**

**Section 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 **TWO MILLION FOUR HUNDRED TWENTY-EIGHT THOUSAND SEVEN HUNDRED TWENTY PESOS ONLY (PHP 2,428,720.00)** inclusive of all taxes, fees, licenses, permits, and other lawful charges for the fulfillment of the obligation, to the **Second Party**.

**Section 2.** The aforementioned amount shall be released in two (2) tranches to the **Second Party**, subject to the terms and conditions of this MOA and the usual government accounting, procurement, and auditing rules and regulations, and upon submission of the following supporting documents:

- a. Line-item budget showing the breakdown of cost/expenses
- b. PHILGEPS
- c. BIR
- d. Income Tax Return
- e. Mayor's Permit
- f. Billing Request for each tranche (Original)
- g. Official Receipt for each tranche (Original)
- h. Duly Signed and Notarized Contract
- i. Curriculum Vitae of the Proponent/ Company Profile
- j. Bank Details and TIN No.

**Section 3.** The Parties shall adhere to the following payment terms:

100% - Upon submission of the comprehensive project concept note/program outline, stage design, event setup plan, and kits suggestions, and upon delivery of the event's collaterals and souvenir; and  
Upon completion of the stage, food catering, food and registration areas; setup with lights and sounds; overall venue design/decor; submission of the photo and video collaterals of the event including the post-event video highlights.



**Section 4.** The Fee shall be made payable within thirty (30) to (60) working 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 by the **Second Party** of complete supporting documents to the DFA-OCD and through List of Due and Demandable Accounts Payable (LDDAP).

**ARTICLE V  
MODE OF PAYMENT**

**Section 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

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

**ARTICLE VI  
CONFIDENTIALITY AND RELATED MATTERS**

**Section 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 MOA.

**Section 2. Non-Public Information.** For purposes of this MOA, all information that the **First Party**, its employees, assigns, or persons related therewith, provide to the **Second Party**; all information pertaining to the services performed by the **Second Party**; and all information regarding the **First Party**, its employees and participants to the project, including, without limitation, the identity of persons, shall be deemed and treated as strictly confidential, non-public information unless and until the **First Party** 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.

**Section 3. Copyright and Intellectual Property.** All final work products designed, developed, and/or created by the **Second Party** pursuant to this MOA, shall be the sole property of the **First Party**, including copyright, title, interest, and related intellectual property rights. The use of the final work products by the **Second Party** shall be limited in accordance with the terms of this MOA, or as advised, in writing, by the **First Party**.

**Section 4. 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 MOA, 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 that contemplated by this MOA. 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 employees or agents, or related entities. This duty shall survive the expiration or termination of this MOA, in perpetuity.

**Section 5. Data Privacy.** The **Second Party** and its employees are required to observe the provisions of Republic Act no. 10173 or the Data Privacy Act of 2012 in handling information obtained from the **First Party**. In addition, the **Second Party** and its employees shall be responsible for the destruction of all the data secured from the **First Party** after the termination of this MOA.

## ARTICLE VII MISCELLANEOUS PROVISIONS

**Section 1.** Both Parties shall comply with all applicable laws, rules, regulations, orders, and decrees of the Philippine government.

**Section 2.** 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, or to a third party for any loss, liability, damage or expense arising out of or in connection with the performance of any services contemplated by this MOA, 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.

**Section 3.** Any other contract or agreement entered into by **Second Party** and a third party for the implementation of this MOA, 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 disputes or suits related to the said contract or agreement, and in no event shall it be held liable to such third parties for any actual, special, incidental, indirect, consequential, exemplary, or punitive damages relating to the conduct or completion of the activity.

**Section 4.** Nothing in this MOA 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.

**Section 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 MOA, without written consent of the other.

**Section 6.** This MOA and TOR encapsulates the full agreement between the Parties, and any subsequent alteration, modification, or amendment of this MOA or any of its provisions shall be subject to mutual consent of both Parties and shall be made in writing.

**Section 7.** 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 MOA, through negotiations. On any issue related to the technical specifications under the TOR, the interpretation of the **First Party** shall prevail. In the event that an amicable settlement cannot be achieved within thirty (30) days working 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 pursuant thereto, shall be kept confidential. The seat and venue of arbitration shall be Pasay City, Metro Manila, Philippines. Nothing in this MOA, however, shall prevent the **First Party** from applying to a Philippine court of competent jurisdiction for provisional or interim measures or injunctive relief, as may be necessary, to safeguard the property or rights that 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, to the exclusion of other courts.

**Section 8.** Nothing in this MOA shall be construed as a waiver by the **First Party** of any of its privileges and immunities under Philippine law.

**Section 9.** Delays in the delivery of services and outputs by the **Second Party** shall be subject to the terms and conditions of this MOA and the Revised Implementing Rules and Regulations (RIRR) of Republic Act (RA) No. 9184 otherwise known as "Government Procurement Reform Act."

**Section 10.** In case of delay in the deliverables, the **Second Party** shall inform the **First Party** in writing, of the same and provide reasonable alternatives thereof. Such an alternative is subject to the approval or rejection of the **First Party**. In case of rejection, the **Second Party** will be subjected to a penalty as mentioned in the preceding number.

**Section 11.** In case of force majeure or fortuitous events and/or when public interest or welfare so demands, either Party shall have the right to suspend the implementation of this MOA/MOU, without incurring any liability thereunder. Once the event of force majeure or fortuitous event ceases, they shall resume the performance of their respective roles and responsibilities under this MOA/MOU.

**Section 12.** Either Party may terminate this MOA in accordance with the RIRR of RA 9184.

**IN WITNESS WHEREOF,** the Parties hereto have signed these presents on this \_\_\_\_\_ day of \_\_\_\_\_ 2024 at the City of Pasay, Philippines.

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

  
**JOHN PHILIP Y. CO**  
President  
Sinematika, Inc.

**Signed in the Presence of:**

  
**CELIA ANNA M. FERIA**  
Assistant Secretary  
DFA Office of Cultural Diplomacy

  
**ELVIRA P. APAN**  
Finance Head  
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 \_\_\_\_\_, 2024 personally appeared **ANTONIO A. MORALES**, Undersecretary of the Department of Foreign Affairs, and **JOHN PHILIP Y. CO** 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 **8 pages** including the page on which this Acknowledgement 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	D0013516A	DFA MANILA	07 MAR 2029
John Philip Y. Co	P9739203B	DFA NCR EAST	22 APRIL 2032

Both known 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 \_\_\_\_\_ day of \_\_\_\_\_ 2024.

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