

# SERVICE CONTRACT

This Service Contract (the "Contract") is entered into by and executed by

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR)**, a government-owned and -controlled corporation, created and existing by virtue of Presidential Decree No. 1869, as amended, with office address at PAGCOR Corporate Office, New Coast Hotel Manila, M. H. del Pilar corner Pedro Gil Streets, Malate, Manila, represented in this act by its **Acting Branch Manager, ANTONIO BENIGNO V. GUTIERREZ**, hereinafter referred to as "**PAGCOR**";

- and -

**TABUKO ENERGY NETWORK CORP.**, a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at 49 Purok 1 Barangay Butong, Cabuyao, Laguna, represented in this act by its **Authorized Representative, MARIO T. JAVIER**, duly authorized for this purpose as per Secretary's Certificate dated August 1, 2022 hereto attached as Annex "A" hereinafter referred to as "**CONTRACTOR**".

Each of **PAGCOR** and **CONTRACTOR** may hereinafter be referred to as a "**PARTY**" and collectively referred to as the "**PARTIES**".

The parties warrant that they are duly organized, registered, validly existing and in good standing under the laws of the Republic of the Philippines, and that the parties and their representatives are capable and have the requisite power, authority, permits, clearances and licenses, to enter into this Service Contract and to perform the Services and all of their obligations under this Service Contract.

WITNESSETH:

WHEREAS, **PAGCOR** has a requirement of Procurement of Supply and Delivery of Two (2) Lots for the Installation, Testing and Commissioning Services for the Inspection, Labor and Materials for the Repairs of the Four (4) Existing Generator Sets of Ronquillo Satellite under ITB No.: SV22-05-003WINa-07 (the "Services");

WHEREAS, pursuant to Section 53.1 (Small Value) of the Implementing Rules and Regulations (IRR) of Republic Act (R.A.) 9184, the **CONTRACTOR** has submitted a responsive proposal to undertake the Services and **PAGCOR** has accepted the proposal of the **CONTRACTOR**, subject to the terms and conditions hereunder stipulated;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereunder specified by these presents, **PAGCOR** and the **CONTRACTOR** hereby enter into this Service Contract under the following terms, conditions and stipulations:

## I. SCOPE OF SERVICES

The **CONTRACTOR** undertakes to provide the Procurement of Supply and Delivery of Two (2) Lots for the Installation, Testing and Commissioning Services for the Inspection, Labor and Materials for the Repairs of the Four (4) Existing Generator Sets of Ronquillo Satellite under ITB No.: SV22-05-003WINa-07, in accordance with the following technical specifications :

SCOPE OF WORK/TECHNICAL DESCRIPTION	
<b>Lot 1: Mitsubishi, Detroit and Volvo Generators</b>	
<b>1</b>	<b>Supply of labor materials and replacement of new modular control, needed for the repair of Volvo Generator.</b>
1.1	Mobilization
1.2	Removing of old module
1.3	Tagging of control wire
1.4	Installation of new generator control module
1.5	Rewiring of controls
1.6	Energization
1.7	Submit test report
1.8	Demobilization
<b>2</b>	<b>Supply of labor materials and replacement new automatic battery charger 13amp 24vdc/230 vac for Volvo generator set.</b>
2.1	Mobilization
2.2	Removing of defective old battery charger
2.3	Tagging of control wire
2.4	Installation of new battery charger
2.5	Testing
2.6	Energizing
2.7	Submit test result
2.8	Demobilization
<b>3</b>	<b>Supply of labor materials and repair of auto cranking panel of Detroit Generator set.</b>
3.1	Repair of auto cranking panel
3.2	Mobilization
3.3	Removing of defective parts
3.4	Tagging of control wire
3.5	Installation of new components
3.6	Testing
3.7	Energizing
3.8	Submit report
3.9	Demobilization
<b>4</b>	<b>Supply of labor materials and replacement of defective digital controller monitor including re-programing, oil sensor/water temperature sensor, lugs and relays of Mitsubishi Generator set.</b>
4.1	Mobilization

4.2	Removing of old module
4.3	Tagging of control wire
4.4	Installation of new generator control module
4.5	Rewiring of controls
4.6	Energization
4.7	Submit test report
4.8	Demobilization
<b>LOT 2 - CATERPILLAR GENERATOR</b>	
<b>Supply of labor materials and replacement of new modular control, needed for the repair of the Caterpillar Generator.</b>	
1.1	Mobilization
1.2	Removing of old module
1.3	Tagging of control wire
1.4	Installation of new generator control module
1.5	Rewiring of controls
1.6	Energization
1.7	Submit test report
1.8	Demobilization
<b>WARRANTY</b>	
The genset parts shall carry six (6) months warranty parts and service or 500 running hours of operation whichever comes first free of charge to the end-user commencing on the date of commissioning, against factory defects under normal operating conditions.	
<b>DELIVERY OF SERVICES/PROJECTS</b>	
The services/projects shall commence Fifteen (15) days upon the receipt and acknowledgement of the Notice to Proceed (NTP) by the supplier or upon the advice of the end-user. Supplier shall be given Forty-Five (45) days to complete the said services/projects.	

## II. SCHEDULE OF PAYMENT

- The total contract price for this Service Contract shall be **Five Hundred Sixty-Eight Thousand Seven Hundred Seventy-Four Pesos (PhP568,774.00), VAT Exclusive, Zero-Rated Transaction.** (the "Contract Price").

Description of Item	Unit Cost VAT Exclusive, Zero-Rated Transaction	Total Cost VAT Exclusive, Zero-Rated Transaction
<b>LOT 1 - MITSUBISHI, DETROIT AND VOLVO GENERATORS</b>	<b>PhP 379,010.00</b> Three Hundred Seventy-Nine Thousand Ten Pesos	<b>PhP 379,010.00</b> Three Hundred Seventy-Nine Thousand Ten Pesos
<b>LOT 2 - CATERPILLAR GENERATOR</b>	<b>PhP 189,764.00</b> One Hundred Eighty-Nine Thousand Seven Hundred Sixty-Four Pesos	<b>PhP 189,764.00</b> One Hundred Eighty-Nine Thousand Seven Hundred Sixty-Four Pesos

<b>GRAND TOTAL (VAT EXCLUSIVE, ZERO-RATED TRANSACTION)</b>	<b>PhP 568,774.00 Five Hundred Sixty-Eight Thousand Seven Hundred Seventy-Four Pesos</b>
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2. Payment shall be based on actual consumption and billing and shall be subject to the appropriate withholding taxes.
3. **PAGCOR** shall not be under any obligation to pay the **CONTRACTOR** the entire amount of the Contract Price. Moreover, the aggregate billings under this Contract shall not exceed the total Contract Price.
4. **PAGCOR** shall not be liable for any other costs except as provided for under this Contract.

### III. CONTRACT TERM

1. This Contract shall commence Fifteen (15) days from the date of acknowledgement of the winning bidder of the Notice to Proceed or upon the advice of the end-user. **CONTRACTOR** shall be given Forty-Five (45) days to complete the said services/projects.
2. **PAGCOR** may terminate this Contract with or without cause, without need for judicial intervention, and without incurring any obligation whatsoever, upon thirty (30) days written notice to the **CONTRACTOR**.
3. Should **CONTRACTOR** incur delay in the performance of its obligations, the **CONTRACTOR** shall pay liquidated damages equal to one-tenth (1/10) of one percent of (1%) of the cost of the delayed Service for everyday of delay, including Sundays and Holidays, until such service is finally rendered and accepted by **PAGCOR**. Such amount shall be deducted from any money due, or which may become due to the **CONTRACTOR** or collected from any securities or warranties posted by the **CONTRACTOR**. In case the total sum of liquidated damages reaches ten percent (10%) of the total contract price, **PAGCOR** may rescind the contract and impose appropriate sanctions over and above the liquidated damages to be paid.
4. In case the **CONTRACTOR** still fails to deliver the Services after the lapse of thirty (30) days from the supposed date of implementation as provided for in this Contract, **PAGCOR** shall have the option to terminate the Contract, without prejudice to other courses of action and remedies open to it.

### IV. NO EMPLOYER-EMPLOYEE OR AGENCY/PARTNERSHIP RELATIONSHIP

1. There shall be no employer-employee relationship between **PAGCOR** and the employees of the **CONTRACTOR**. The **CONTRACTOR** shall have the entire charge, control and supervision of the Services herein agreed upon. The **CONTRACTOR** shall be responsible for all acts and omissions of its agents, personnel and all persons allowed by it to have access to **PAGCOR's** premises, for any injury which may be caused to any person or property while remaining either casually or in business in any part of **PAGCOR's** premises. Any accident, injury or sickness of any kind, or

death that may occur to any agent, personnel of the **CONTRACTOR** consequent to the performance of the Services under this Service Contract shall be the **CONTRACTOR's** sole responsibility. The **CONTRACTOR** further binds itself to indemnify and hold **PAGCOR** free and harmless from any claim on account of the aforementioned injuries or damages.

2. Any offense committed by any of the **CONTRACTOR's** personnel shall constitute a breach of this Service Contract. **PAGCOR** shall communicate to the **CONTRACTOR** all instances of such breach for immediate and appropriate action by the **CONTRACTOR**.
3. The **CONTRACTOR** shall comply with all of obligations as an employer under the *Labor Code*, its implementing rules and regulations and all other applicable laws and regulations. Non-compliance therewith shall be for its exclusive risk and responsibility and shall constitute a violation of and a ground for the termination of this Service Contract.
4. The relationship between the parties shall be limited to the performance of the Services as stipulated under this Service Contract. Nothing herein shall be construed to create a general partnership between the parties, or to authorize any party to bind the other, except as set forth in this Service Contract, or to borrow money on behalf of another party, or to use the credit of any party for any purpose.

#### V. WARRANTIES, CLEARANCES, PERMITS, LICENSES and TAXES

1. The **CONTRACTOR** warrants that there are no actions, suits or proceedings pending or threatened, which may have a material adverse effect on its ability to fulfill its obligations under this Contract or on its operations, business, properties, assets or business condition.
2. All taxes, amounts, claims, and expenses pertaining to clearances, licenses, permits, registrations or renewals thereof, required by **PAGCOR** or the appropriate government entities for the Services to be performed under this Service Contract shall be for the exclusive account of **CONTRACTOR**.
3. The **CONTRACTOR** shall pay its taxes in full and on time. The **CONTRACTOR** shall also present a tax clearance from the Bureau of Internal Revenue (BIR) and a copy of its income and business tax returns, duly stamped, received and validated by the BIR, indicating the tax payments made thereon. Its failure to do so shall entitle **PAGCOR** to suspend payment for services rendered by the **CONTRACTOR**.

#### VI. INDEMNIFICATION

1. The **CONTRACTOR** will defend, protect, indemnify, and hold **PAGCOR** harmless from any and all adverse claims that may be made by any party in connection with this Service Contract. The indemnification is limited to the services delivered to **PAGCOR** by the **CONTRACTOR** and does not cover third party claims not authorized by the **CONTRACTOR**.

2. The **CONTRACTOR** hereby holds **PAGCOR** its guests, corporate affiliates, directors, officers, employees and agents free and harmless from any and all actions or liabilities arising out of this Service Contract, including, without being limited to, claims for unpaid and back wages, regularization, and other terms and conditions of employment, as well as civil and criminal liabilities that the **CONTRACTOR** and/or **PAGCOR** may incur as a result of, or arising out of, the conduct and/or pursuit of Services and to indemnify the **PAGCOR** from and against the costs of defending any action, suit or proceedings, including legal fees or other expenses incurred in relation to any such claims mentioned above.
3. The **CONTRACTOR** shall indemnify and shall hold **PAGCOR**, its directors, officers, employees, agents, customers and guests and corporate affiliates and any employee or agent thereof (each of the foregoing, being hereinafter referred to individually as the "Indemnified Party") free and harmless against any and all liability to third parties (other than liability solely the fault of the indemnified party) arising from the negligence of the **CONTRACTOR** or its agents including (but not limited to) the violation of any third party's trade secret, proprietary information, trademark, copyright or patent rights in connection with the use of **PAGCOR** of the **CONTRACTOR's** services.
4. The **CONTRACTOR** agrees to protect and to exercise due care and proper handling of the properties of **PAGCOR** during the performance of the Services. The **CONTRACTOR** shall be jointly and severally liable with its personnel and shall indemnify and hold **PAGCOR** free and harmless for any death, injury or damage to **PAGCOR** and to third person or loss, breakage, or destruction of properties, as a consequence of the **CONTRACTOR's** acts or omissions, willful intent or negligence, during the performance of the Services or its obligations under this Service Contract.
5. The **CONTRACTOR** shall be liable in case of theft, robbery or any loss to **PAGCOR's** premises serviced by the **CONTRACTOR's** personnel. The **CONTRACTOR** hereby agrees to replace, repair or restitute any loss involving its personnel.

## VII. PERFORMANCE SECURITY

The **CONTRACTOR** shall post a Performance Security (the "Security") for the benefit of **PAGCOR**, conditioned on former's compliance with all its obligations under this Service Contract, prior to the signing of the Service Contract, in accordance with any of the following schedule:

Form of Security	Amount in Percentage of Total Contract Price
Cash, cashier's/manager's check, issued by a Universal or Commercial Bank.	Five Percent (5%) Twenty-Eight Thousand Four Hundred Thirty-Eight Pesos and 70/100 (PhP 28,438.70)
Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank; Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	

Surety Bond (which is acceptable to PAGCOR) callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such authority.	Thirty Percent (30%) One Hundred Seventy Thousand Six Hundred Thirty-Two Pesos and 20/100 (PhP170,632.20)
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The Performance Security shall remain valid until the issuance of the final Certificate of Acceptance. It may be released only after the issuance of the final Certificate of Acceptance of the Services, provided that there are no claims filed against the **CONTRACTOR** or the surety company.

### VIII. CLAIMS AND DISPUTES

All claims and disputes relating to or arising out of this Contract, shall as much as possible, be settled amicably by the parties before resorting to any judicial action.

If the parties fail to settle their differences or disputes, the parties waiving for the purpose any other venue, hereby agree that the courts of the City of Manila shall be the exclusive venue of any or all actions or suits between the parties to the exclusion of all other courts and venues. This exclusive venue provision shall apply even in cases for declaration of nullity of this Contract in its entirety or in part and in cases arising after or by reason of the declaration of nullity of this Contract in its entirety or in part.

### IX. MISCELLANEOUS PROVISIONS

- a) In the event that the facts and circumstances arise or are discovered which render this Contract disadvantageous to the Government, the parties, hereto agree immediately to re-negotiate its terms and conditions, or at the option of PAGCOR, terminate the same.
- b) No terms and conditions of this Contract shall be waived and no breach or default excuse unless such waiver or excuse shall be in writing and signed by the party affected.
- c) This Contract, and all rights and interests herein, may not be assigned or sub-contracted to another without prior consent of the other party.
- d) All notices and other communications provided for or permitted hereunder shall be in writing and sent to the parties at their respective addresses as indicate in this Contract.
- e) If any provision hereof is prohibited or made unenforceable under any applicable law of by a competent court or authority, the same shall not affect any other provision of this Contract, which are otherwise valid and enforceable.
- f) Any right or remedy conferred by this Contract upon the parties shall not be exclusive of any other right or remedy of each party, whether under this Contract or provided or permitted to the parties at law or in equity, but each right or remedy shall be cumulative of every other right or remedy available to them.

*Handwritten signatures*

*Handwritten signature*

- g) This Contract constitutes the entire agreement between the parties pertaining to the subject matter contained in it, and supersedes all prior and/or contemporaneous agreements, representations, warranties and understanding of the parties.
- h) No supplemental, variation or amendment of this Contract shall be binding unless executed by the parties in writing.


IN WITNESS WHEREOF, the parties hereto have signed these presents on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in \_\_\_\_\_.

**PHILIPPINE AMUSEMENT AND  
GAMING CORPORATION**  
TIN: 033-000-887-972

**TABUKO ENERGY CORP.**  
TIN: 007-980-447-000

Represented by:


Represented by:

  
**ANTONIO BENIGNO V. GUTIERREZ**  
Acting Branch Manager  
TIN: 135-552-311

  
**MARIO T. JAVIER**  
CEO/Business Development Manager  
TIN: 145-936-245

Signed in the presence of:

  
Gerry F. Maningding

  
NELMA Q. JAVIER



**ACKNOWLEDGEMENT**

REPUBLIC OF THE PHILIPPINES)  
CITY OF MANILA ) S.S.

BEFORE ME, a Notary Public for and in City of Manila, Philippines, this  
day of 22 NOV 2022, 2022, personally appeared:

**NAME**

**GOVERNMENT ID NO.**

**ANTONIO BENIGNO V. GUTIERREZ**

**DRIVERS LICENSE NO2-89-072513**  
Valid until: February 24, 2032

known to me and known to be the same person who executed the foregoing instrument consisting of ten (10) pages, including the page whereon the acknowledgments are written and acknowledged before me that the same is his free and voluntary act and deed and that of the Corporation he represents.

WITNESS MY HAND AND NOTARIAL SEAL, at the place and on the date first above written.

Doc No. 296 ;  
Page No. 61 ;  
Book No. IX ;  
Series of 2022.  
MCLE Compliance No. \_\_\_\_\_

*EMM*  
**ATTY. EMMANUEL A. PALADO, JR.**  
NOTARY PUBLIC  
FOR AND IN THE CITY OF MANILA  
6TH FLR. PAGCOR OFFICE, NEW COAST HOTEL & CASINO  
M.H. DEL PILAR ST., COR. PEDRO GIL, MALATE MANILA  
Comm. No. 2022-049 / Valid Until - 12/31/23  
ROLL No. 71289 / IBP No. 181581, 1/5/22, Manila IV Chapter  
MCLE Compliance No. VII-0003701/DAWA-4/14/20  
PTR No. 0002807 issued Jan. 2022 / Until 12/31/2022

*Signature*

*Signature*

*Signature*

*Gerry F. Maningding*  
**Gerry F. Maningding**

**ACKNOWLEDGEMENT**

REPUBLIC OF THE PHILIPPINES)  
\_\_\_\_\_ City of Cabuyao \_\_\_\_\_) S.S.

BEFORE ME, a Notary Public for and in City of \_\_\_\_\_ City of Cabuyao \_\_\_\_\_, Philippines, this  
\_\_\_\_\_ day of ~~16~~ 15 ~~NOV~~ NOV 2022, 2022, personally appeared:

**NAME**

**GOVERNMENT ID NO.**

**MARIO T. JAVIER**

**DRIVERS LICENSE DO4-93-065204**  
Valid until: August 17, 2024

known to me and known to be the same person who executed the foregoing instrument consisting of ten (10) pages, including the page whereon the acknowledgments are written and acknowledged before me that the same is his free and voluntary act and deed and that of the Corporation he represents.

WITNESS MY HAND AND NOTARIAL SEAL, at the place and on the date first above written.

Doc No. 9132 ;  
Page No. 49 ;  
Book No. x1 ;  
Series of 2022.  
MCLE Compliance No. \_\_\_\_\_

ATTY. LEIF LANSION A. OFIÑA  
Notary Public  
Notarial Comm. No. 2019-19  
Extended until December 31, 2022  
B.M. 3795 dated July 5, 2022  
Roll No. 52081  
PTR No. 1604526; Jan. 03, 2022; Cabuyao City  
MCLE Compliance No. VI-0006392;  
Issued on May 3, 2018, Extended until Apr. 14, 2023  
B.M. No. 850 dated February 15, 2022  
IBP Lifetime No. 013103; Jan. 8, 2015; Laguna  
2<sup>nd</sup> Floor, ROJULA 4M Bldg., Rosario Village;  
Brgy. Sala, Cabuyao City, Laguna;  
Tel. No. (049) 544-8480

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