

## SERVICE CONTRACT

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This SERVICE CONTRACT ("Contract") is entered into by and between:

**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 Executive Office, 1558 New World Manila Bay Hotel, M.H. del Pilar corner Pedro Gil Sts., Malate, Manila, represented by its Chairman and Chief Executive Officer, CRISTINO L. NAGUIAT JR., hereinafter referred to as "**PAGCOR**";

- and -

**GENDIESEL PHILIPPINES INC.**, a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at 103 Commerce Road, Phase 2, Laguna Technopark, Biñan City, Laguna, duly represented by its General Manager – Parts and Service Sales, ROLANDO M. DADO, duly authorized for this purpose by Secretary's Certificate dated June 25, 2015 hereto attached as Annex "A" hereinafter referred to as the "**CONTRACTOR**".

### WITNESSETH: THAT -

WHEREAS, **PAGCOR** requires the Preventive Maintenance of Generator Set at PAGCOR House for Three (3) Years under ITB No. 07-21-2015 ("Services");

WHEREAS, considering that all requisites were met, **PAGCOR** procured the Services thru Direct Contracting under Section 50 of the Revised Implementing Rules and Regulations (IRR) of Republic Act (R.A.) No. 9184;

WHEREAS, the **CONTRACTOR** has submitted the Single Calculated Responsive Quotation to undertake the supply and delivery of said Services;

WHEREAS, **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 a Contract under the following terms, conditions and stipulations;

### ARTICLE I DESCRIPTION OF WORK

The **CONTRACTOR** undertakes to provide the Services in accordance with the following technical specifications:

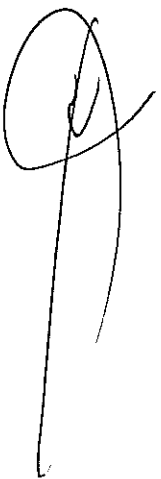

1. The **CONTRACTOR** shall provide skilled technicians with special diagnostic tools to perform the required maintenance check up inspection service on consultancy basis and testing to the maintenance/operation group of PAGCOR to effectively maintain the machine on jointly agreed scheduled dates.

  
ALMA S. LIM

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2. The CONTRACTOR shall perform servicing activities based on the preventive maintenance program activities per factory recommendation on generator set engine entered into the program.
  3. The CONTRACTOR shall perform minor repair/adjustment applicable to be undertaken on site requiring labor only provided man hour estimate for each unit (i.e. total time of scheduled maintenance servicing and minor repair/adjustment) will not exceed eight (8) working hours. Replacement parts, if any shall be supplied separately.
  4. The CONTRACTOR shall submit servicing and check-up reports upon completion of programs/activities. Any recommendation needing PAGCOR's action shall be submitted as soon as possible.
  5. The CONTRACTOR shall provide appropriate operators training on proper operation and maintenance procedures on site.
  6. The CONTRACTOR shall provide update information on latest product and services improvements affecting the unit and give necessary recommendation.
  7. The CONTRACTOR shall provide technical and manpower supports during prolonged power interruption and will assist PAGCOR for mobile generator set upon request and this will be treated separately.
  8. The CONTRACTOR shall provide a 24/7 emergency call with response time of not more than three hours from the time of PAGCOR's first call.
  9. The services would be made quarterly for three (3) years.

#### QUARTERLY ACTIVITIES

##### Check/Adjust (Detroit Diesel Engine)

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1. Engine Off
    - a) Engine oil level and leaks
    - b) Coolant level and leaks (including Heat Exchanger)
    - c) Fuel level and leaks (including fuel tank)
    - d) All drive belts, tension and alignment
    - e) Battery charging rate
    - f) Battery cables, terminals
    - g) Wiring, hoses, fuel lines
    - h) Air intake, filter element for cleanliness, tightness
    - i) Charging alternator for tightness, alignment
    - j) Fan hub/pulley for play
    - k) Emergency shutdown/linkage
    - l) Engine instruments/gauges
    - m) Fire pump instruments/gauges
    - n) Check radiator caps, fins for dirt (including air ducts)
    - o) Check loose bolts and nuts, hangers & supports
    - p) Inspect the control panel and accessories
  2. Engine Operating
    - a) Starting system operation/manual/auto
    - b) Check for engine instruments-reading
    - c) Check for fluid leaks
    - d) Unusual noises and exhaust leaks
    - e) Functional test of engine warning and shut down system
    - f) Check for fire pump instrument / gauges

ALMA S. LIM

## ANNUAL ACTIVITIES

1. Replacement of lube oil and oil filter-every one hundred fifty (150) hours or 1 year whichever comes first.
2. Replacement of fuel filters – every 150 hours or 1 year whichever comes first.
3. Clean heat exchanger core- as required.
4. Change radiator coolant – as required
5. Replace air cleaner element – as required
6. Change spark plugs every year.
7. Perform load bank testing

## ARTICLE II CONTRACT PRICE AND SCHEDULE OF PAYMENT

The Contract price for the services shall be in the total amount of One Hundred Five Thousand Six Hundred Pesos (PhP105,600.00), VAT-Exclusive, Zero-Rated transaction.

PAGCOR shall pay the CONTRACTOR a quarterly service fee in the amount of Eight Thousand Eight Hundred Pesos (PhP 8,800.00), VAT-Exclusive, Zero-Rated transaction.

Both parties agree that the total price stated herein is inclusive of all applicable taxes, fees and charges required by the Government. The CONTRACTOR holds PAGCOR free from liability for any or all taxes arising out of this transaction.

The prices herein agreed shall not be subject to any increase or upward adjustment for any reason or cause whatsoever for the duration of the entire Contract.

## ARTICLE III CONTRACT TERM

This Service Contract shall be effective for a period of three (3) years which shall commence from the effectivity date specified in the Notice to Proceed. During this period, PAGCOR may terminate this Contract with or without cause, without need of judicial intervention upon thirty (30) days written notice to the CONTRACTOR.

## ARTICLE IV WARRANTIES

The CONTRACTOR hereby warrants and represents that:

1. It is an entity duly organized, validly existing, and in good standing under the laws of the Republic of the Philippines, and it has the requisite power and authority to enter into and perform its obligations under this Contract.
2. There are no actions, suits or proceedings pending or, to the best of its knowledge, 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.
3. That the Services to be rendered shall be as described under Article I of this Contract. The CONTRACTOR warrants that it has secured all the necessary government licenses and permits to allow it to render the Services agreed upon and that

ALMA S. LIM

it is free from any liability or adverse claims, of every nature and description that would prevent or hinder it from rendering the said Services.

4. The CONTRACTOR warrants that is the owner of all equipment to be used for any maintenance services covered under this Contract, or, if not, the CONTRACTOR has the authority from the owner to use such equipment.

#### **ARTICLE V** **PERFORMANCE SECURITY**

The CONTRACTOR shall post a Performance Security (the "Security") for the benefit of PAGCOR as guarantee for former's compliance with its obligations under this contract. The Security shall be posted prior to the signing of the Contract, in accordance with any of the following schedule:

Form of Security	Amount in Percentage of Total Contract Price
Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five Percent (5%)  <b>Five Thousand Two Hundred Eighty Pesos (PhP 5,280.00)</b>
Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: <i>Provided, however,</i> 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 security specific for the contract awarded.	Thirty Percent (30%)  <b>Thirty-One Thousand Six Hundred Eighty Pesos (PhP31,680.00)</b>

The Performance Security shall be retained by PAGCOR, without interest, during the pendency of this Contract and any extension thereof. The Performance Security shall only be released after the termination of this Contract and/or the issuance by PAGCOR of the final Certificate of Acceptance and after deducting any and all claims that PAGCOR may have against the CONTRACTOR.

The CONTRACTOR shall cause the extension of the validity of the Performance Security to cover approved contract time extensions.

The Performance Security shall guarantee the complete and satisfactory performance of the agreed upon Services, the delivery of the items enumerated in Article I, and the full compliance of its warranties under Article IV.

#### **ARTICLE VI** **CLAIMS AND DISPUTES**

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

In case PAGCOR and CONTRACTOR fail to amicably settle their differences or disputes, PAGCOR and CONTRACTOR hereby agree that the courts of the City of Manila shall be the exclusive venue of any action or suit arising from this Contract. This exclusive venue provision shall also apply even in cases for declaration of nullity of this

ALMA S. LIM

Contract 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.

**ARTICLE VII**  
**DAMAGES FOR DELAY**

Should CONTRACTOR incur delay in the performance of the Services as scheduled, the CONTRACTOR shall pay a penalty of one-tenth of one percent (1/10 of 1%) of the total cost of the unperformed portion of the Service to be rendered for each day of delay, including Sundays and Holidays, beyond the specific period.

In case the CONTRACTOR still fails to render the required Services after the lapse of thirty (30) days from the date provided by PAGCOR, in addition to the penalties agreed upon, PAGCOR shall have the option to terminate this Contract.

**ARTICLE VIII**  
**NO EMPLOYER-EMPLOYEE RELATIONSHIP**

There shall be no employer-employee relationship between PAGCOR and the employees of the CONTRACTOR. The CONTRACTOR shall have exclusive control and supervision of its employees in the performance of the Services herein agreed upon. The CONTRACTOR shall be solely responsible for all acts and/or omissions of its personnel and of all persons allowed by it to have access to the PAGCOR's premises for any damage which may be caused to persons or property while remaining either casually or in business in any part of said premises. Any accident, injury or sickness of any kind, or death that may occur to any employee of the CONTRACTOR during the time and consequent to the performance of the services under this Contract shall likewise be the CONTRACTOR's sole responsibility.

The CONTRACTOR further binds itself to hold PAGCOR free and harmless from any claim on account of the aforementioned injury or damage.

**ARTICLE IX**  
**CONFIDENTIALITY**

All information disclosed to the CONTRACTOR arising out of or as a result of this Contract shall be confidential in nature. The CONTRACTOR shall be solidarily liable to PAGCOR for unauthorized disclosures made by its officers, employees, agents and other persons acting on the CONTRACTOR's behalf.

**ARTICLE X**  
**FORCE MAJEURE**

The CONTRACTOR is responsible for the implementation of the Services provided in Article I hereof. In the event that such project cannot be completed within the prescribed period because of fortuitous events and/or force majeure, as defined by prevailing laws and such other causes not attributable to the CONTRACTOR, PAGCOR shall have no cause for action against the CONTRACTOR and shall only pay the value of the Service already delivered and accepted.

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ALMA S. LIM

**ARTICLE XI**  
**DEFAULTS**

In the event that any of the parties fail to comply in good faith with their undertakings, as set forth in this Contract, within the periods provided herein, the non-defaulting parties shall be released from their obligations under this Contract, without prejudice to the rights of restitution, recovery and damages.

In the event of breach by either party, the parties agree to amicably settle the same under the provisions of Article VI hereof prior to judicial action.

In the event settlement cannot be made, the parties shall abide by the provisions of law with respect to default.

**ARTICLE XII**  
**INDEMNIFICATION**

The CONTRACTOR shall be liable for any loss, damage, or injury of any kind to PAGCOR and its officers and/or personnel, and shall hold them free and harmless against all actions, proceedings, claims and demands, which may be made by any person in respect of any loss, death, damage or injury arising by reason of the Services under this Contract. The CONTRACTOR shall indemnify PAGCOR, its officers, and personnel on account of the costs of defending or settling any such action, proceeding claim or demand, including but not limited to reasonable legal costs.


**ARTICLE XIII**  
**TAXES AND LICENSES**

All amounts, claims and expenses pertaining to applicable licenses, permits, registrations or renewals thereof, required by the appropriate government entities for the Services performed under this Contract shall be for the exclusive account of CONTRACTOR.

The CONTRACTOR shall pay taxes in full and on time, failure to do so will entitle PAGCOR to suspend payment for Services rendered by the CONTRACTOR.

**ARTICLE XIV**  
**MISCELLANEOUS**

1. In the event that the facts and circumstances arise or are discovered which render this Contract disadvantageous to the Government, the parties hereto agree to immediately re-negotiate its terms and conditions, or at the option of PAGCOR, terminate the same.
2. No terms or conditions of this Contract shall be deemed waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the party affected.
3. This Contract may not be assigned or sub-contracted to another without the prior written consent of the other party.
4. All notices and other communications provided for or permitted hereunder shall be in writing and sent to the parties to whom the notice is addressed at their respective addresses as indicated in this Contract.

  
ALMA S. LIM

5. If any provision hereof is prohibited or made unenforceable under any applicable law by a competent court or authority, the same shall not affect any other provision of this Contract, which are otherwise valid and enforceable.
6. This Contract contains all the covenants and stipulations agreed upon by the parties and shall be modified, revised or amended only upon written agreement of both parties.
7. The parties agree to abide by these terms and conditions in good faith.
8. The relationship between the parties shall be limited to the performance of the terms and conditions of the Contract. Nothing in this Contract 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 Contract, or to borrow money on behalf of another party, or to use the credit of any party for any purpose other than what has been set forth herein.
9. Any right or remedy conferred by this Contract upon PAGCOR shall not be exclusive of any other right or remedy of PAGCOR, whether under this Contract or provided or permitted to PAGCOR at law or in equity, but each right or remedy shall be cumulative of every other right or remedy available to it.
10. This Contract constitutes the entire agreement between the parties pertaining to the subject matter contained in it, and supersedes all prior and contemporaneous agreements, representations, warranties and understandings of the parties. No supplement, variation or amendment of this Contract shall be binding unless executed in writing by all parties thereto.

IN WITNESS WHEREOF, the parties hereto have signed these presents on this \_\_\_\_ day of \_\_\_\_\_, 2016 at the City of Manila, Philippines.

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION**

TIN: 033-000-887-972

Represented by:

**CRISTINO L. NAGUIAT JR. W**  
Chairman and Chief Executive Officer  
TIN: 102-013-832

*NOZBERTO L. OBIAS*

**GENDIESEL PHILIPPINES INC.**

TIN: 000-120-669-000

Represented by:

**ROLANDO M. DADO**  
General Manager – Parts and Service Sales  
TIN: 108-118-204

*ROLANDO M. DADO*

Signed in the presence of:

*ALMA S. LIM*

**ACKNOWLEDGMENT**

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

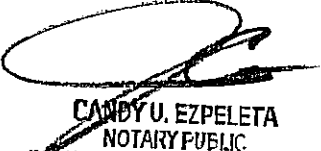
BEFORE ME, a Notary Public for and in the City of CITY OF MANILA and on this day of FEB 26 2016 2016, personally appeared:

Name	Identification Document Presented	Issue and Expiry Date
CRISTINO L. NAGUIAT JR	PASSPORT NO. DE0004583	January 7, 2014 to January 6, 2019


known to me to be the same person who executed the foregoing Service Contract consisting of nine (9) pages, and who acknowledged to me that the same is his own free and voluntary act and deed as well as the free and voluntary act and deed of the entity he represents, he being duly authorized for this purpose.

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

Doc No. 411  
Page No. 84  
Book No. I  
Series of 2016

  
**CANDY U. EZPELETA**  
NOTARY PUBLIC  
AT AND FOR THE CITY OF MANILA  
1501 FLR, NEW WORLD MANILA BAY HOTEL & CASINO  
M.H. DEL PILAR ST., MALATE, MANILA  
COMM. NO. 2315 - 150, UNTIL DEC. 31, 2016  
ROLL NO. 63454 / IBP LIFETIME NO. 012355  
CAPIZ CHAPTER  
PTR NO. 4309232A-B-16/MANILA

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ALMA S. LIM



**ACKNOWLEDGMENT**

REPUBLIC OF THE PHILIPPINES)  
CITY OF STA. ROSA) S.S.

BEFORE ME, a Notary Public for and in the City of CITY OF STA. ROSA and on this FEB 12 2016 of \_\_\_\_\_ 2016, personally appeared:

Name	Identification Document Presented
ROLANDO M. DADO	Social Security System ID no. 03-6977201-1


known to me to be the same person who executed the foregoing Service Contract consisting of nine (9) pages, and who acknowledged to me that the same is his own free and voluntary act and deed as well as the free and voluntary act and deed of the entity he represents, he being duly authorized for this purpose.

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

Doc No. 017  
Page No. 06  
Book No. 39  
Series of 2016

~~ATTY. MELANIE J. ORTEGA~~  
NOTARY PUBLIC  
UNTIL DECEMBER 31, 2017  
TIN No. 910-251-593  
ROLL NO. 52596  
IBP Reg. No. 0990996 11/24/2015, Laguna  
PTR No. 2744060 1/13/2016, Sta. Rosa  
Notarial Commission No. 2015-19 (2016-2017)  
Unit 1C Padisland Bldg. LDA, Don Jose, Sta. Rosa, Laguna



  
ALMA S. LIM

SECRETARY'S CERTIFICATE

I, DONATO T. FAYLONA, Filipino, of legal age and with office address at 1909 Cityland Condominium 10 Tower I, 6815 Ayala Avenue cor. H.V. Dela Costa St. Makati City, subscribing under oath, hereby depose and state that:

ANNEX "A"

1. I am the Corporate Secretary of GENDIESEL PHILIPPINES INC. (Formerly General Diesel Power Corporation) a domestic corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office and business address at 103 Commerce Road, Phase 2, Laguna Technopark, Biñan, Laguna 4024;

2. In a Special Meeting of the Board of Directors of said corporation held at the principal office, the following resolution was approved and adopted to wit:


RESOLUTION

"RESOLVED, that Mr. Rolando M. Dado, General Manager-Parts & Service Sales and/or Mr. Emerlito L. Rejano, Senior Account Manager-Parts & Service Sales are hereby authorized to act and represent GENDIESEL PHILIPPINES INC. (the "corporation") with PHILIPPINE AMUSEMENT & GAMING CORPORATION (PAGCOR).

"RESOLVED FURTHER, that MR. ROLANDO M. DADO and/or MR. EMERLITO L. REJANO are hereby authorized to sign, execute, enter into, endorse, contract, papers, instruments, effects and related documents in behalf of the Corporation with PHILIPPINE AMUSEMENT & GAMING CORPORATION (PAGCOR)."

3. The above resolution is in accordance with the records of the Corporation in my possession.

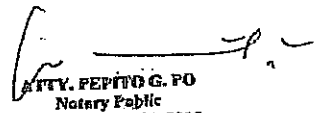
IN WITNESS WHEREOF, I have hereunto affixed my signature this 25<sup>th</sup> day of June, 2015.

  
DONATO T. FAYLONA  
Corporate Secretary

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

SUBSCRIBED AND SWORN to before me this JUN 25 2015 day of June 2015, affiant exhibiting to me his Driver's License No. D02-65-010391.

Doc. No. 223 ;  
Page No. 45 ;  
Book No. XX ;  
Series of 2015 .

  
ATTY. PEPITO G. PO  
Notary Public  
Until December 31, 2015  
PTR No. 4232653 / 01-06-2014 / Manila City  
EFP No. 947158 / 12-16-2013 / Manila III  
Roll No. 42926