

SERVICE CONTRACT

KNOW ALL MEN BY THESE PRESENTS:

This Service Contract (the "Contract") is entered into and executed 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 the PAGCOR Corporate Office, Hyatt Hotel and Casino Manila, M. H. del Pilar corner P. Gil Sts., Malate, Manila, represented in this act by its President and Chief Operating Officer, **JORGE V. SARMIENTO**, hereinafter referred to as "PAGCOR";

- and -

AGUA VIDA SYSTEMS, INC., a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at No. 257 C. Raymundo Avenue, Maybunga, Pasig City, represented herein by its Head, of Installation and Service, **EDWIN B. URBANO**, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, PAGCOR has a requirement for a Two (2) Year Service Maintenance of Water Purification System at PAGCOR Complex Imus under ITB NO. 02-04-2012;

WHEREAS, considering that all requisites were met, PAGCOR, as approved by its Chairman and Chief Executive Officer on April 30, 2012, has pursued Negotiated Procurement (Small Value) under Section 53.9 of the Implementing Rules and Regulations of Republic Act No. 9184 for the procurement of said services;

WHEREAS, the CONTRACTOR has submitted the lowest complying and responsive quotation to undertake the 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 foregoing, the parties agree as follows:

ARTICLE I SCOPE OF SERVICES

The CONTRACTOR undertakes to provide maintenance services over the water purification system located in the PAGCOR Complex, No. 363 Bayan Luma VI, Imus, Cavite, in strict accordance with the following schedule:

1. Once-a-month service maintenance visits upon request of PAGCOR
2. Filter replacement

MONTHLY REPLACEMENT
<ul style="list-style-type: none">• 10 Micron Sediment Filter 20" Slim• 5 Micron Sediment 20" Slim

EVERY THREE (3) MONTHS
<ul style="list-style-type: none"> • 50-5 Micron Sediment Filter 20" BB • 25-1 Micron Sediment Filter 20" BB • 10 Micron Carbon Block Filter 20" BB • 05 Micron Bag Filter 20"
EVERY SIX (6) MONTHS
<ul style="list-style-type: none"> • 05 Micron Carbon Block Filter 20" Slim

3. Replacement of Other Consumable Items (once a year)

<ul style="list-style-type: none"> • Ultra Violet (UV) Lamp (pre and post) • UV Quartz (pre and post) • Reverse Osmosis (RO) Membrane 4" X 40" • Resin inside Ion Exchange
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4. Water Test/Analysis (TDS, pH, Total Alkalinity, Total Hardness)

5. Repair of leaks and other minor piping problems

6. Disinfection of UV Quartz, Ion Exchange and RO Membrane when necessary

- a. A service unit will be provided while the existing R.O. Membrane is being cleaned and disinfected. Said service unit shall be replaced once the RO Membrane is cleaned and properly functioning.
- b. If, after cleaning and disinfection, the existing RO Membrane does not properly function, the CONTRACTOR shall install a new RO Membrane in the system.
- c. In the event that the RO Membrane is not replaced within six (6) months, the new membrane unit will be given to PAGCOR.

7. Quality Assurance at least four (4) times a year

Any maintenance visit, upgrade or additional equipment requiring additional labor and materials cost shall be subject to applicable procurement regulations on amendment to orders.

ARTICLE II CONTRACT AMOUNT

The contract price for the Two (2) Year Service Maintenance of Water Purification System at PAGCOR Complex, Imus, stated in Article I, shall be in the total amount of **TWO HUNDRED TWENTY SIX THOUSAND FOUR HUNDRED TEN PESOS (PhP 226,410.00)**, 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 Contract.

ARTICLE III SCHEDULE OF PAYMENT

The **CONTRACTOR** shall submit to **PAGCOR** a monthly billing statement. **PAGCOR** shall pay the **CONTRACTOR** the monthly service fee in the amount of **NINE THOUSAND FOUR HUNDRED THIRTY THREE PESOS & 75/100 (PhP 9,433.75)** within thirty (30) calendar days from receipt of the monthly billing statement.

WITNESS FOR CONTRACTOR

EDWIN B. URBANO
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
PRESIDENT & COO

PAGCOR
PAGCOR COMPLEX
IMUS, CAVITE

ARTICLE IV
CONTRACT TIME

Unless otherwise earlier terminated, this Contract shall be for two (2) years, commencing on the effectivity date provided in the Notice to Proceed. Within the said period, **PAGCOR** may terminate the contract with or without cause, without need of judicial intervention, upon thirty (30) days written notice to the **CONTRACTOR**.

ARTICLE V
WARRANTIES AND RESPONSIBILITIES

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 supply the services agreed upon and that it is free from any liability or adverse claims, of every nature and description that would prevent or hinder it from supplying the said services.
4. The **CONTRACTOR** has good title and/or full authority to supply the services in this Contract, and that the services are supplied free and clear of all liens, encumbrances, liabilities and adverse claims, of every nature and description.
5. The **CONTRACTOR** shall pay taxes in full and on time, failure to do so will entitle **PAGCOR** to suspend payment for any goods delivered or services rendered by the **CONTRACTOR**.
6. The **CONTRACTOR** agrees to protect and to exercise due care and proper handling of the properties of **PAGCOR** during the performance of its work. The **CONTRACTOR** and its personnel agree to be jointly and severally liable for any damage to **PAGCOR** and to third person, loss, breakage, or destruction of properties as a consequence of their willful intent or negligence in the performance of their obligation and to indemnify **PAGCOR** through replacement with its equivalent or payment of the same.
7. The **CONTRACTOR** shall provide two (2) hours response time upon receipt of notice.
8. The **CONTRACTOR** shall guarantee that the spare parts are readily available.
9. The **CONTRACTOR** shall prepare and submit a monthly maintenance report for the status of the equipment.
10. Requests for additional visits, upgrade or additional filter stages on equipment requiring additional labor and materials cost shall be subject to applicable procurement regulations on amendment to orders.

ARTICLE VI
EXCLUSIONS

WITNESS FOR CONTRACTOR

EDWIN B. URBANO
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
PRESIDENT & COO

RECEIVED
PAGCOR-Imus Complex
MAY 10 2011

Services which may be required to address the following are excluded from the coverage of this Contract:

- a. Raw water supply problems including raw tank defects
- b.. Problems caused by power deficiencies
- c.. Problems caused by negligence of equipment by PAGCOR's personnel
- d.. Upgrade or additional equipment and accessories that may be requested at a later date.
- e.. Additional filtration stages
- f.. Plumbing and electrical materials that will need replacement
- g.. Salt for water softener
- h.. Additional request for RO Membrane replacement will be for the account of PAGCOR
- i.. Parts replacement
- j.. Booster pumps, delivery and RO pump and motor

WITNESS FOR CONTRACTOR

**ARTICLE VII
DAMAGES FOR DELAY**

The **CONTRACTOR** shall pay a penalty of one-tenth of one percent (1/10 of 1%) of the of the unperformed portion for each day of delay, including Sundays and Holidays, beyond the specific period for the delay in the performance of remedial or preventive services.

Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, PAGCOR shall have the option to rescind the contract, without prejudice to other courses of action and remedies open to it.

In case the **CONTRACTOR** still fails to provide the maintenance services after the lapse of thirty (30) days from the supposed date of services scheduled by **PAGCOR**, in addition to the penalties agreed upon, **PAGCOR** shall have the option to terminate the agreement.

**ARTICLE VIII
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 any unauthorized disclosure made by its officers, employees, agents, and other persons acting on the **CONTRACTOR**'s behalf.

**ARTICLE IX
INDEMNIFICATION**

CONTRACTOR shall indemnify and shall hold **PAGCOR**, its 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 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.

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**.

**ARTICLE X
TAXES AND LICENSES**

EDWIN B. URBANO
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
PRESIDENT & COO

All amounts, claims, and expenses pertaining to 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**.

Upon the request of **PAGCOR**, the **CONTRACTOR** shall regularly present within the duration of the contract, a tax clearance from the Bureau of Internal Revenue ("BIR") as well as a copy of its income and business tax returns duly stamped and received and duly validated with the tax payments made thereon.

ARTICLE XI
CLAIMS AND DISPUTES

All claims and disputes relating to or arising out of this Contract, including any questions of interpretation, 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 between **PAGCOR** and **CONTRACTOR**. This exclusive venue provision shall also 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.

In the event that a dispute arises with respect to this Contract, the party prevailing in such dispute shall be entitled to recover all expenses, including, without limitation, reasonable attorneys' fees and expenses, incurred in ascertaining such party's rights or in preparing to enforce, or in enforcing, such party's rights under this Contract, whether or not it was necessary for such party to institute suit.

ARTICLE XII
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 party shall be released from its 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 XI 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 XIII
FORCE MAJEURE

The **CONTRACTOR** is responsible for the services provided in Article I hereof. In the event that such provisions of the Contract cannot be complied within the prescribed period because of fortuitous event and 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**.

Without limiting the applicability of prevailing laws, an event shall not be considered fortuitous event unless it presents all of the following characteristics:

- A. The event must be independent of the **CONTRACTOR's** or its employee's will;
- B. The event could not be foreseen, or if it could be foreseen, it must have been impossible to avoid;

WITNESS FOR CONTRACTOR

EDWIN B. URBANO
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
PRESIDENT & COO

- C. The event must be of such character as to render it impossible for the **CONTRACTOR** to comply with its obligation in a normal manner. Mere difficulty in the performance shall not excuse the **CONTRACTOR**; and
- D. The **CONTRACTOR** or its employees must be free from any participation in the aggravation of the injury to **PAGCOR**.

**ARTICLE XIV
MISCELLANEOUS**

In the event that the facts and circumstances arise or are discovered which render this agreement 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.

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.

This Contract, and all the rights and interests herein, may not be assigned or sub-contracted to another without the consent of the other party.

All notices and other communications provided for or permitted hereunder shall be in writing and sent to the parties at their respective addresses as indicated in this Contract.

If any provision hereof is prohibited or made unenforceable under any applicable law or by a competent court or authority, the same shall not affect any other provision of this Contract, which are otherwise valid and enforceable.

The parties agree to abide by these terms and conditions in good faith.

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.

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.

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 the parties thereto.

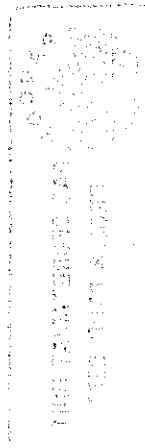
This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be considered as an original and all together shall constitute one agreement.

WITNESS FOR CONTRACTOR

EDWIN R. URBANO
CONTRACTOR

WITNESS FOR PAGCOR


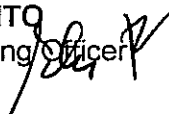
JORGE V. SARMIENTO
PRESIDENT & COO



IN WITNESS WHEREOF, the parties hereto have signed these presents on this ____ day of _____, 2012 at the City of Manila, Philippines.


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

Represented by:

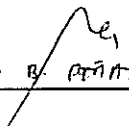

JORGE V. SARMIENTO
President and Chief Operating Officer
TIN: 150-848-787 

AGUA VIDA SYSTEMS, INC.
TIN: 004-453-911-000

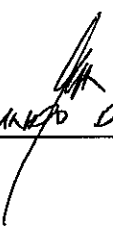
Represented by:


EDWIN B. URBANO
Head, Installation and Service
TIN: 202-462-318

Signed in the presence of:



MEVION B. PERALTA



EDMUNDO DE VERA

PHILIPPINE AMUSEMENT AND GAMING CORPORATION
AGUA VIDA SYSTEMS, INC.

WITNESS FOR CONTRACTOR

ACKNOWLEDGMENT

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

BEFORE ME, a Notary Public for and in the City of Manila, on this JUN 08 2012, 2012, personally appeared the following with his respective Government ID number, to wit:

NAME

ID NO.


JORGE V. SARMIENTO

Driver's License No. X01-82-011519

known to me to be the same person who executed the foregoing Service Contract and who acknowledged to me that the same is his own free will and voluntary act and deed as well as the voluntary act and deed of the entity he represents..

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

Doc. No. 414
Page No. 84
Book No. XIV
Series of 2012.


GERHARD P. G. NOBLEJAS
NOTARY PUBLIC
6TH FLR. HYATT HOTEL & CASINO
M.H. DEL PILAR ST., MALATE, MANILA
APPT. NO. 2011-203 UNTIL DEC. 31, 2012
ROLL NO. 50410, IBP LIFETIME NO. 06837
QUEZON CITY CHAPTER
PTR NO. 0393174 DTD 01-17-12 AT MANILA

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
PRESIDENT & COO



WITNESS FOR CONTRACTOR

ACKNOWLEDGMENT

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

JUN 01 2012 BEFORE ME, a Notary Public for and in the City of **QUEZON CITY** Manila, on this _____, 2012, personally appeared the following with his respective Government ID number, to wit:

EDWIN B. URBANO
CONTRACTOR

NAME

ID NO.

EDWIN B. URBANO

TIN # 202-462-318-000 / May 31, 1999
Pasig City

known to me to be the same person who executed the foregoing Service Contract and who acknowledged to me that the same is his own free will and voluntary act and deed as well as the voluntary act and deed of the entity he represents.

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

Doc. No.
Page No.
Book No.
Series of 2012.

ATTY. JOEL G. GORDOLA
NOTARY PUBLIC
NOTARIAL COMMISSION NO. 066
COMMISSION EXPIRES DEC. 31, 2012
PTR NO. 6010756, 1/03/2012, Q.C.
IBP NO. 823224 DEC. 2, 2011, Q.C.
ROLL OF ATTORNEY NO. 25103

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
PRESIDENT & COO

