

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 Pedro Gil Streets, Malate, Manila, represented in this act by its **PRESIDENT AND CHIEF OPERATING OFFICER, JORGE V. SARMIENTO**, hereinafter referred to as "PAGCOR";

- and -

BAYAN TELECOMMUNICATIONS, INC., a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at Bayantel Corporate Center, Malingap corner Maginhawa Streets, Teacher's Village East, Diliman, Quezon City, represented in this act by its Division Head – Bayan Business, **PATRICK PAUL A. GATCHALIAN**, hereinafter referred to as the "CONTRACTOR".

WITNESSETH: THAT -

WHEREAS, PAGCOR requires the installation of a Twenty-Four (24) Mbps Internet Direct Service for one (1) year under ITB No. 04-18-2012;

WHEREAS, PAGCOR conducted a public bidding on May 23, 2012 for the procurement of said service;

WHEREAS, the CONTRACTOR has submitted the lowest calculated responsive bid to undertake the supply and delivery of the internet service;

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 premises, the parties agree as follows:

ARTICLE I DESCRIPTION OF WORK

The CONTRACTOR shall install a 24-Mbps Internet Direct Service at the PAGCOR House, 1330 Roxas Boulevard, Ermita, Manila, with the following technical specifications:

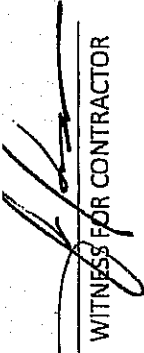


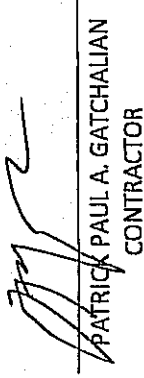
WITNESS FOR CONTRACTOR

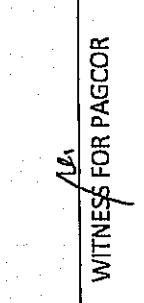
PATRICK PAUL A. GATCHALIAN
CONTRACTOR

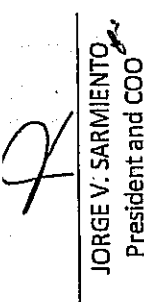
WITNESS FOR PAGCOR

JORGE V. SARMIENTO
President and COO


WITNESS FOR CONTRACTOR


PATRICK PAUL A. GATCHALIAN
CONTRACTOR


WITNESS FOR PAGCOR


JORGE V. SARMIENTO
President and COO

<ul style="list-style-type: none">• Dedicated access to the Internet via Fiber Optic Leased Line with at least 99.95% Service Availability Level
<ul style="list-style-type: none">• 1:1 ratio or first level ISP; one (1) block IP address [at least thirty (30) usable IP Addresses]
<ul style="list-style-type: none">• The infrastructure shall be a high speed fiber optic backbone connection to its neighboring countries and local ISPs.
<ul style="list-style-type: none">• The infrastructure should have two (2) or more redundant direct connections to the Global Internet, specifically the U.S. backbone with at least Three Hundred (300) Mbps.
<ul style="list-style-type: none">• The infrastructure should own/operate or be a member of local peering with at least Ten (10) Mbps connection
<ul style="list-style-type: none">• Symmetric Internet Service with committed information rate of (24) Mbps (upstream, downstream)
<ul style="list-style-type: none">• The infrastructure shall include at least 2 x E1 backup lines (wired/wireless).
<ul style="list-style-type: none">• The CONTRACTOR must provide the modem-router/router for the internet link.
<ul style="list-style-type: none">• System handover is Fast Ethernet.
<ul style="list-style-type: none">• The network shall have highly reliable IP switching technology.
<ul style="list-style-type: none">• The network shall have full redundancy in the physical level, i.e. core switches and multiple gateway boarder routers for guaranteed QoS.
<ul style="list-style-type: none">• The CONTRACTOR must provide managed connectivity to the Global Internet, i.e. both local and international.
<ul style="list-style-type: none">• The CONTRACTOR must be able to deploy two (2) diverse wireline last mile for high availability.
<ul style="list-style-type: none">• The system latency is not more than 200ms to the US and packet loss of not more than One Percent (1%).
<p>Router Configuration: CISCO 1900 SERIES Capable of voice and data 4 slots Chassis based router; 19: rack mountable Capable of 256Mb DRAM Minimum compact flash card of 64Mb upgradeable to 128Mb External compact flash With QoS; USB Port Supports Digital Encryption Standard (DES), Triple DES (3DES), Advance Encryption Standard (AES) 128, AES 192 and AES 256 cryptology Support redundant power supply Support Software firewall base</p>

ARTICLE II
CONTRACT AMOUNT

For and in consideration of the services, PAGCOR agrees to pay the contract price in the total amount of **One Million Twenty Six Thousand Pesos (PhP 1,026,000.00)**, VAT-Exclusive, Zero-Rated transaction.

Both parties agree that the total price stated herein already includes 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 price agreed herein 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

PAGCOR shall pay the monthly service fee in the amount of **Eighty Five Thousand Five Hundred Pesos (PhP 85,500.00)**, VAT-Exclusive, Zero-Rated transaction within thirty (30) days from receipt of the CONTRACTOR's monthly billing statement.

ARTICLE IV
CONTRACT TERM

This Contract shall commence on the date provided in the Notice to Proceed, and shall continue to be in force for a period of one (1) year. During this 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 service to be supplied to PAGCOR 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 service 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 service in this Contract, and that the service is supplied free and

WITNESS FOR CONTRACTOR

PATRICIA PAUL A. GATCHALIAN
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
President and COO

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. All equipment/facilities installed for the service shall be owned and maintained by the CONTRACTOR. Should there be any breakdown of or fault in the system necessitating a change of equipment/facilities, the CONTRACTOR shall have the option of using substitute equipment (at no cost to PAGCOR) it deems suitable for the continuance of the service. In the event the system cannot carry the subscriber data traffic, the CONTRACTOR shall advise PAGCOR accordingly.

ARTICLE VI
GROUND FOR TERMINATION

Subject to due process, the occurrence of any of the following shall give PAGCOR cause to terminate this Contract:

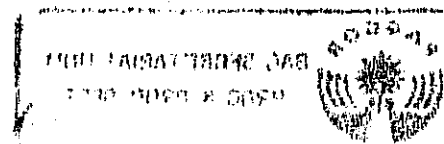
1. Unavailability of twenty four (24) hour support hotline;
2. Failure to respond to reported trouble within four (4) hours;
3. Negligence of ISP/Carrier personnel in servicing PAGCOR (i.e. improper logging of trouble reports such that restoration time is made longer, or plugging of 110V equipment to 220V outlet);
4. Monthly service availability < 99.95%;
5. Failure to provide service availability within forty eight (48) hours in case of scheduled and unscheduled downtime;
6. Failure to respond within four (4) hours in case of failure/breakdown of equipment;
7. Failure to provide service unit/s within four (4) hours in case of equipment breakdown/failure;
8. Failure to access information/reports about the operational status of any part of the IP service that could affect the service received by PAGCOR;
9. Failure to report major failure or some important change in the operational status of the IP service;
10. Insolvency/rehabilitation of the CONTRACTOR; or
11. Breach of any of the major undertaking/conditions/terms of the Contract;

Upon termination of the Contract based on any of the above grounds, PAGCOR shall have the option to take over and negotiate the contract with another carrier/provider, subject to Section 53 (c) of Republic Act No. 9184, its Revised Implementing Rules and Regulations, and other applicable government procurement laws on take-over of contracts.

ARTICLE VII
PERFORMANCE SECURITY

To guarantee the faithful performance of the CONTRACTOR of its obligations, it shall post a Performance Security prior to the execution of the Contract, in accordance with any of the forms provided in the following schedule:

Form of Security	Amount in Percentage of Total Contract Price
------------------	--



WITNESS FOR CONTRACTOR

PATRICK PAUL A. GATCHALIAN
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
President and COO

Cash, cashier's/manager's check, bank draft/guarantee issued by a Universal or Commercial Bank.	Five Percent (5%) (PhP 51,300.00)
Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank, Provided that if issued by a foreign Bank it shall be confirmed by a Universal or Commercial 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.	Thirty Percent (30%) (PhP 307,800.00)
Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

The Performance Security shall guarantee the complete installation of the service system in Article I and its full compliance with the warranties and responsibilities under Article V.

The Performance Security shall remain valid until the issuance of the final Certificate of Acceptance to the CONTRACTOR. The same may be released only after the issuance of the Certificate of Acceptance of the service, provided that there are no claims filed against the CONTRACTOR or the surety company.

**ARTICLE VIII
TAXES AND LICENSES**

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

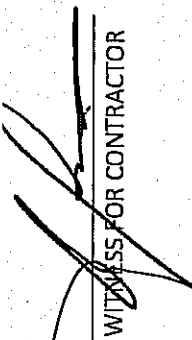
Upon the request of PAGCOR, the CONTRACTOR shall regularly present within the duration of the contract, a tax clearance from the Bureau of Internal Revenue as well as a copy of its income and business tax returns duly stamped and received and duly validated with the tax payments made thereon.

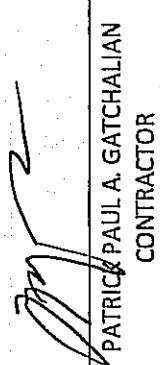
**ARTICLE IX
CONFIDENTIALITY / NON-DISCLOSURE CLAUSE**

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 of information made by its officers, employees, agents, and other persons acting on the CONTRACTOR's behalf.

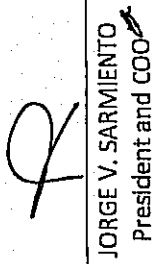
**ARTICLE X
CLAIMS AND DISPUTES**

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.


WITNESS FOR CONTRACTOR


PATRICK PAUL A. GATCHALIAN
CONTRACTOR


WITNESS FOR PAGCOR


JORGE V. SARMIENTO
President and COO

In case PAGCOR and the CONTRACTOR fail to amicably settle their differences or disputes, the parties hereby agree that the courts of the City of Manila shall be the exclusive venue of any action or suit between the parties. 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 XI **DAMAGES FOR DELAY**

The CONTRACTOR shall pay a penalty of one-tenth of one percent (1/10 of 1%) of the total contract price for each day of delay, including Sundays and Holidays, beyond the specific period for the delay in the performance of the service under this Contract.

Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, PAGCOR, in addition to the forfeiture of the performance security and imposition of penalties agreed upon, shall have the option to rescind the contract, without prejudice to other courses of action and remedies open to it.

ARTICLE XII **FORCE MAJEURE**

The CONTRACTOR is responsible for the installation of the system and the continuous and uninterrupted supply of internet direct access provided in Article I of this Contract. 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;
- 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.

WITNESS FOR CONTRACTOR

PATRICK PAUL A. GATCHALIAN
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
President and COO

**ARTICLE XIII
DEFAULTS**

In the event that any of the parties fail to comply in good faith with their respective 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 X 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 XIV
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 personnel in the performance of the service 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 premises for any damage which may be caused to persons or property while remaining either casually or in business in any part therein. 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 XV
MISCELLANEOUS PROVISIONS**

In the event that facts and circumstances arise or are discovered which render this Contract disadvantageous to the Government, the parties agree to 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 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 the interests therein, may not be assigned or sub-contracted to another without prior consent of the other party.

Any and all notices to be given pursuant to, or under this Contract, shall be sent to the party to whom the notice is addressed at the address of the party 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.

WITNESS FOR CONTRACTOR

PATRICK PAUL A. GATCHALIAN
CONTRACTOR

WITNESS FOR PAGCOR

JORGE V. SARMIENTO
President and COO

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 the parties shall not be exclusive of any other right or remedy of each party, whether under this Contract or provided or permitted at law or in equity, but each right or remedy shall be cumulative of every other right or remedy available to it.

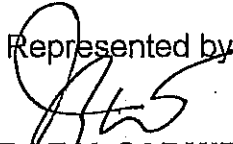
This Contract constitutes the entire agreement between the parties pertaining to the subject matter contained in it, and supersedes all prior and contemporaneous agreements, representations, warranties and understandings of the parties. No supplement, variation or amendment of this Contract shall be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

This Contract 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 contract.

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 & Chief Operating Officer

TIN No. 122-841-833

BAYAN TELECOMMUNICATIONS, INC.

TIN: 000-774-471-000

Represented by:



PATRICK PAUL A. GATCHALIAN
Division Head, Bayan Business

TIN No. 194-847-860



Signed in the presence of:

MEWA 6 / REINFORCED

PAUL JOSEPH P. CARUNDAN

ACKNOWLEDGMENT

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

BEFORE ME, a Notary Public for and in the City of Manila, on this AUG 30 2012, 2012, personally appeared the following with his Government ID Number:

<u>NAME</u>	<u>Government ID No.</u>
<u>JORGE V. SARMIENTO</u>	Passport No. EB1763201 valid until January 19, 2016

known to me to be the same person who executed the foregoing Service Contract consisting of ten (10) 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 is duly authorized to represent.

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

Doc. No. 487
Page No. 99
Book No. III
Series of 2012.

[Signature]
PRIMO ELVIN L. SIOSANA
 NOTARY PUBLIC
 6TH FLR. HYATT HOTEL & CASINO
 M.H. DEL PILAR ST., MALATE, MANILA
 APPT. NO. 2011-143 UNTIL DEC 31, 2012
 ROLL NO. 49810, IBP LIFETIME NO. 08740
 MANILA IV CHAPTER
 PTR NO. 0393171 DTD 01-17-12 AT MANILA
 MCLE COMPLIANCE NO. III-0003498

WITNESS FOR PAGCOR

[Signature]
JORGE V. SARMIENTO
President and COO

ACKNOWLEDGMENT

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

QUEZON CITY

BEFORE ME, a Notary Public for and in the City of Manila, on this 10 AUG 2012 2012, personally appeared the following with his respective Government ID Number:

NAME

Government ID No.


PATRICK PAUL A. GATCHALIAN

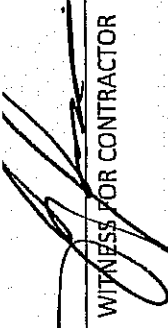
Driver's License No. N03-94-172166
valid until July 25, 2012

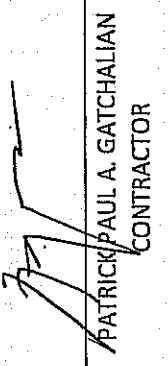
known to me to be the same person who executed the foregoing Service Contract consisting of ten (10) pages, and who acknowledged to me that the same is his own free and voluntary act and deed, as well as the free and voluntary act and deed of the entity he is duly authorized to represent.

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

Doc. No. 371
Page No. 25
Book No. XVI
Series of 2012.


ATTY. WINSTON B. HIPE
NOTARY PUBLIC
COMMISSIONSHIP / UNTIL DEC. 31, 2012
IBP NO. 823337 1-2-2012, QUEZON CITY
PTR. NO 6031025 1-2-2012, QUEZON CITY
ROLL OF ATTORNEYS NO. 43729
MCLE NO. 111-0001108


WITNESS FOR CONTRACTOR


PATRICK PAUL A. GATCHALIAN
CONTRACTOR