

PURCHASE CONTRACT

PO NO. 35579

This PURCHASE CONTRACT (the "CONTRACT") is entered into and executed by and between:

Budget Authorization no. _____

PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR), a government-owned and controlled corporation created and existing by virtue of Presidential Decree 1869, as amended, with office address at the PAGCOR Executive Office, Fifth (5th) Floor, 1588 New World Manila Bay Hotel, M.H Del Pilar cor. Pedro Gil Sts. Malate, Manila, 1004 represented in this act by its Casino Filipino-Manila Bay Officer-In-Charge, **ENRILE DJ. ESGUERRA**, hereinafter referred to as "PAGCOR";

-and-

U-BIX SUBIC BAY CORPORATION a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address, at Unit 130 & 139-140, Subic International Hotel Complex, Charlie Bldg., Labitan and Sta. Rita Roads, Central Business District, Subic Bay Freeport Zone represented in this act by **JESSIE M. ECHON**, duly authorized for this purpose by a Secretary's Certificate¹, hereinafter referred to as the "SUPPLIER".

"Each of **PAGCOR** and the **SUPPLIER** may be referred to as a "PARTY or collectively referred to as the "Parties"

WITNESSETH THAT:

WHEREAS, PAGCOR has a requirement for the Supply and Delivery of One (1) Lot Common Use Supplies and Materials-Office Supplies under ITB No. FB19-07-002MAB;

WHEREAS, PAGCOR conducted a Negotiated Procurement (Two Failed-Biddings) in accordance with the Republic Act 9184 (Government Procurement Reform Act) and its Revised Implementing Rules and Regulations on July 29, 2019 for the procurement of the Project;

WHEREAS, the SUPPLIER has submitted the single calculated responsive quotation for the Project;

WHEREAS, PAGCOR has accepted the bid of the SUPPLIER, subject to the terms and conditions hereunder stipulated;

¹ Annex "A"-Secretary's Certificate

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereunder specified, PAGCOR and the SUPPLIER hereby enter into this Purchase Contract under the following terms, conditions and specifications:

TERMS AND CONDITIONS

The rights and obligations of the parties are set forth as follows:

1. The SUPPLIER shall undertake the supply and delivery of toner with the following technical specifications:

Quantity	Description
9 pieces	Ink, Risograph, EZ571, Black
4 rolls	Master, Risograph, EZ571
5 pieces	Toner, INEO 363, TN414
3 pieces	Toner, INEO TN513

2. The total contract price shall be in the amount of Sixty-Five Thousand Eight Hundred Twenty Eight Pesos (PhP 65,828.00), VAT Exclusive, Zero-Rated Transaction, with breakdown as follows:

Description	Quantity	Unit Cost	Total Cost
Ink, Risograph, EZ571, Black	9 pieces	PhP 1,358.00	PhP 12,222.00
Master, Risograph, EZ571	4 rolls	PhP 4,114.00	PhP 16,456.00
Toner, INEO 363, TN414	5 pieces	PhP 4,850.00	PhP 24,250.00
Toner, INEO TN513	3 pieces	PhP 4,300.00	PhP 12,900.00

PAGCOR and the SUPPLIER agree that the contract price already includes all applicable taxes, fees and charges required by the government. The SUPPLIER holds PAGCOR free from liability for any or all taxes arising out of this transaction.

The prices herein agreed shall be considered as fixed prices, and therefore not subject to price adjustment and escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the Government Procurement Policy Board (GPPB) pursuant to Section 61 of Republic Act (R.A.) No. 9184 and its revised Implementing Rules and Regulations (IRR) and the Revised Guidelines for Contract Price Escalation.

3. The SUPPLIER shall commence the supply and delivery of toner from the date of receipt of the winning supplier of the Notice to Proceed upon advice of the end user. The delivery shall take place at the Casino Filipino – Manila Bay, Southdrive T. M. Kalaw Extension, Ermita Manila based on the following schedule:

Qty	Description	Delivery Schedule
9 pieces	Ink, Risograph, EZ571, Black	Within fifteen (15) calendar days from the receipt of the Notice to Proceed or upon advise of end-user
4 rolls	Master, Risograph, EZ571	
5 pieces	Toner, INEO 363, TN414	
3 pieces	Toner, INEO TN513	

4. PAGCOR shall pay the total amount of Sixty-Five Thousand Eight Hundred Twenty Eight Pesos (PhP 65,828.00), VAT Exclusive, Zero-rated transaction, based on the following schedule:

99% of the costs of the items <u>delivered subject to PAGCOR's acceptance [issuance of the Inspection and Acceptance Report (IAR)]</u> in writing of the items described in the PO.	Sixty-Five Thousand One Hundred Sixty-Nine Pesos and 72/100 (PhP 65,169.72)
1% Retention of the items delivered per lot to be paid after three (3) months from the formal acceptance (issuance of the IAR), if and when no patent and latent defects are noted (issuance of a Certificate of No Patent and Latent Defects).	Six Hundred Fifty-Eight Pesos and 28/100 (PhP 658.28)

OR

100% of the costs of the items delivered provided that the goods supplied are free from patent and latent defects and all conditions imposed under the contract have been fully met; subject to PAGCOR's acceptance (issuance of the IAR) in writing of the items described in this Contract and upon submission of a Special Bank Guarantee equivalent to at least one percent (1%) of the total contract price valid for three (3) months from issuance of the IAR.	Sixty-Five Thousand Eight Hundred Twenty Eight Pesos (PhP 65,828.00)
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5. The SUPPLIER shall complete the supply and delivery of goods in accordance with the Schedule of Delivery. Should the SUPPLIER incur delay in its performance, it shall pay a penalty of one-tenth of one percent (1/10 of 1%) of the total cost of the unperformed portion for each day of delay. The maximum deduction shall be ten percent (10%) of the amount of the contract. 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 SUPPLIER still fails to deliver the item after the lapse of thirty (30) days from the supposed date of delivery, in addition to the forfeiture of the Performance Security and the penalties agreed upon, PAGCOR shall have the option to terminate the Contract.

6. In the event that the SUPPLIER fails to comply with its undertakings under this Contract, PAGCOR shall be released from its obligations without prejudice to its rights of restitution, recovery and damages.
7. 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.
8. No terms or conditions of this Contract shall be deemed waived and no breach or default excused unless such waiver shall be in writing and signed by the party affected.
9. The rights or obligations under this Contract are of a personal nature and compliance thereof may not be assigned or subcontracted to another without the written consent of the other party. This Contract or any interest in it may not be assigned without the prior written consent of the other party.
10. 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.
11. This Contract constitutes the entire contract 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. No waiver of any of the provisions of this Contract shall be deemed, or shall constitute, a waiver of any other provision, whether similar or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding UNLESS in writing and signed by the party making the waiver.
12. The relationship between the parties shall be limited to the performance of the terms and conditions of this Contract. Nothing herein shall be construed to create a general partnership/agency/employer-employee or any other relationship between the parties, or to authorize any party to bind the other except as set forth herein, 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.
13. The parties, waiving for this purpose any other venue, hereby agree that the courts of the City of Manila shall be the exclusive venue of any and all actions or suits between the parties relative to this Contract, 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.

14. The SUPPLIER hereby further warrants and represents that:

- a. The goods delivered shall be in accordance with the specifications described in paragraph 1 and 2 of this Contract.
- b. It has good title to the goods described in the Bidding Documents and the Contract, that it has full authority to sell and transfer the same and that the items are sold free and clear of all liens, encumbrances, liabilities and adverse claims, of every nature and description.

- c. It will fully defend, protect, indemnify, and hold PAGCOR harmless from any and all adverse claims that may be made by any party for the possession and/or the use of the goods.
 - d. The defective items shall be replaced within seven (7) days upon receipt of notice. Failure to replace the defective items within the same period shall make SUPPLIER liable for a penalty of one-tenth of one percent (1/10 of 1%) of the total cost of the unperformed portion for each day of delay, including Sundays and Holidays.
 - e. PAGCOR accepts no liability for the damage of the goods during transit. Title to the goods will be deemed to have passed to PAGCOR only upon receipt and final acceptance of the Goods.
 - f. It shall pay taxes in full and on time, failure to do so will entitle PAGCOR to suspend payment.
 - g. Without prejudice to manufacturer's warranty, in order to assure that manufacturing defects shall be corrected by the SUPPLIER, a warranty security shall be required from the SUPPLIER for a minimum period of **three (3) months** from the date of delivery or acceptance of goods.
 - h. The obligation for the warranty security shall be covered by either retention money or a special bank guarantee equivalent to at least one percent (1%) of the total contract price.
 - i. The said amount shall only be released after the lapse of the warranty period provided the goods supplied are free from patent and latent defects and all conditions imposed under the contract have been fully met.
15. To guarantee the faithful performance of the SUPPLIER under this Contract, it shall post a Performance Security prior to the execution of the Contract, in accordance with any of the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five Percent (5%)
(b) 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.	Three Thousand Two Hundred Ninety-One Pesos and 40/100 (PhP 3,291.40)
(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security specific to the contract awarded.	Thirty Percent (30%) Nineteen Thousand Seven Hundred Forty-Eight Pesos and 40/100 (PhP 19,748.40)

In case the SUPPLIER posted a Bid Security in the form of Cash, Cashier's or Manager's Check, the same may be utilize as additional payment to complete the amount of the performance security.

The Performance Security shall remain valid during the entire contract duration and shall be released only after the issuance of the Certificate of Final Acceptance (issuance of the IAR); Provided that PAGCOR has no claims filed against the contract awardee or the surety or insurance company and it has no claims for labor and materials filed against the Supplier.

IN WITNESS WHEREOF, the parties have signed these presents on this _____ day of _____, 20__ at _____.

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

Represented by:



ENRILE D. ESGUERRA
Officer-in-Charge
TIN: 101-998-457

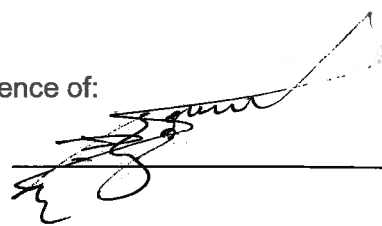
U-BIX SUBIC BAY CORPORATION
TIN: 004-075-472-000

Represented by:


JESSIE M. ECHON
Authorized Representative
TIN: 171-060-583

Signed in the presence of:





ACKNOWLEDGEMENT

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

BEFORE ME, a Notary Public for and in City of MAKATI CITY, Philippines, this
_____ day of 11 SEP 2019, 2019, personally appeared:

NAME ID ISSUED AT/ON


JESSIE M. ECHON
Authorized Representative


License No. N01-97-208818
Expiration date: August 18, 2022

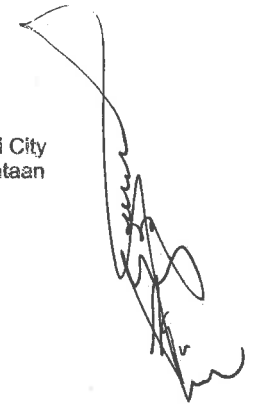

known to me and known to be the same person who execute the foregoing instrument consisting of eight (8) pages, including the page whereon the acknowledgments is written and acknowledged before me that the same is his free and voluntary act and deed and that of the Corporation he represents.

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

Doc No. 2019
Page No. 5/11
Book No. 2019
Series of 2019




Atty. Carlos M. Caringal
Notary Public for Makati City
1344 Angono St., Makati City
Appointment No. M-45
Until December 31, 2019
Roll of Attorney No. 56587
PTR No. 7334210; 1-03-2019; Makati City
IBP Lifetime Member No. 010282; Bataan



ACKNOWLEDGEMENT

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

BEFORE ME, a Notary Public for and in City of CITY OF MANILA, Philippines, this
_____ day of SEP 18 2019, 2019, personally appeared:

NAME

ID ISSUED AT/ON


ENRILE DJ. ESGUERRA

PAGCOR ID No. 86-0918
Issuance Date: April 12, 2019
Place of Issuance: Manila

known to me and known to be the same person who execute the foregoing instrument consisting of eight (8) pages, including the page whereon the acknowledgments is 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. 418 :
Page No. 84 :
Book No. II :
Series of 2019.


STEPHANIE MARIZ C. KHAN
NOTARY PUBLIC
IN AND FOR THE CITY OF MANILA
6TH FLR, NEW WORLD MANILA BAY HOTEL & CASINO
N.H. DEL PILAR ST. MALATE, MANILA
COMALNO. 2018 - 054 / UNTIL DEC.31, 2019
R.O.L. NO. 70318 / REP. CHAPTER, MANILA IV
NOTE COMPLIANCE!! - ~~VI-VII~~ 2022
MANILA IV - CHAPTER
RTRB/NO. 0640042/JAN.11, 2010/MANILA

