

# PURCHASE CONTRACT

This PURCHASE 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 1869, as amended, with office address at the PAGCOR Corporate Annex Office, Carmen Building, 1105 UN Avenue cor. Maria Orosa St., Ermita, Manila, represented in this act by its Assistant Vice President, Procurement Department, **HERNANDO C. APIGO**, hereinafter referred to as "PAGCOR";

-and-

**WESTERN MARKETING CORPORATION**, a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at UGF Royal Arranque Commercial Center, CM Recto Ave., 029 Barangay 305, Santa Cruz, represented in this act by its Branch Manager, **RAYMOND LLOYD YU SORIANO**, duly authorized for this purpose by a Secretary's Certificate dated June 20, 2019, hereto attached as Annex "A", hereinafter referred to as the "SUPPLIER".

Each referred to as a "PARTY" and collectively 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 Purchase Contract and to perform the Services and all of their obligations under this Purchase Contract.

## ANTECEDENTS:

**WHEREAS**, PAGCOR has a requirement for the Supply and Delivery of Three (3) Lots Various Gift Certificates for Corporate Communications Department under ITB No. PB19-04-041CORa-05;

**WHEREAS**, PAGCOR conducted a Public Bidding in accordance with the Republic Act 9184 (Government Procurement Reform Act) and its 2016 Revised Implementing Rules and Regulations on May 27, 2019 for the procurement of the Project;

**WHEREAS**, the SUPPLIER has submitted the single calculated responsive bid for Lot 2 of the Project;

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

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 Gift Certificates for Corporate Communications Department with the following technical specifications:

Lot No.	Description
2	One Thousand (1,000) pieces PhP1,000.00 denomination Gift Certificate (GC) for availment of Appliances (WESTERN)
	For availment of the following appliances, among others:
	➤ Handycam
	➤ Cellphone
	➤ LED TV
	➤ Refrigerator
	➤ Digital Camera
	➤ Food Steamer
	➤ Microwave Oven
	➤ Rice Cooker
	➤ Tepanyaki Griller
	➤ Turbo Broiler
	➤ USB Flashdrive
	➤ External Hard Drive
	➤ Audio Dock
	➤ DVD Player
	➤ Karaoke Microphone
	GC must be honored at face value (PhP1,000.00)
	GC is valid for all brands and products
	GC is valid in all outlets /branches
	GC may be used on public holidays
	No expiration date

2. The total contract price shall be in the amount of NINE HUNDRED FIFTY THOUSAND PESOS (PhP950,000.00), or PhP950.00 per GC, VAT Exclusive, Zero-rated transaction.

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. **SUPPLIER** shall complete, within fifteen (15) calendar days, the supply and delivery of the Gift Certificates from the date of receipt by the **SUPPLIER** of the Notice to Proceed. **SUPPLIER** shall deliver the Gift Certificates at the Corporate Communications Department, Fifth (5<sup>th</sup>) floor, PAGCOR Corporate Annex Office, Carmen Building, 1105 UN Avenue cor. Maria Orosa St., Ermita, Manila
4. **PAGCOR** shall pay the total amount of Nine Hundred Fifty Thousand Pesos (PhP950,000.00), VAT Exclusive, Zero-Rated Transaction, based on the following schedule:

99% of the costs of the items delivered per complete delivery, subject to <b>PAGCOR</b> 's acceptance [Issuance of the Inspection and Acceptance Report (IAR)] in writing of the items described in the PO.	Nine Hundred Forty Thousand Five Hundred Pesos (PhP940,500.00)
1% Retention per complete delivery 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 Certificate of No Patent and Latent Defect).	Nine Thousand Five Hundred Pesos (PhP9,500.00)

OR

100% of the costs of the items per complete delivery, 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 <b>PAGCOR</b> 's acceptance (issuance of the IAR) in writing of the items described in this Contract and upon submission of a Special Bank Guarantee at least one percent (1%) of the total contract price valid for three (3) months from issuance of the IAR.	Nine Hundred Fifty Thousand Pesos (PhP950,000.00)
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5. The **SUPPLIER** shall complete the supply and delivery of goods within the time agreed by both parties. 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 and specifications shall be described in no. 1 of this Contract.
  - b. It has good title to the goods described in the Bidding Documents, 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) calendar 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 and 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 three (3) months 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 Security	Amount in Percentage of Total Contract Price
Cash, cashier's/manager's check issued by a Universal or Commercial Bank.	Five Percent (5%)
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.	Forty-Seven Thousand Five Hundred Pesos (PhP47,500.00)
Surety Bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorize to issue such security specific for the contract awarded.	Thirty Percent (30%) Two Hundred Eighty-Five Thousand Pesos (PhP285,000.00)

The Performance Security shall remain valid during the entire contract duration and shall be released only after the issuance of the IAR.


IN WITNESS WHEREOF, the parties have signed these presents on this \_\_\_\_\_ day of \_\_\_\_\_, 2019 at \_\_\_\_\_.


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

**WESTERN MARKETING  
CORPORATION**  
TIN: 000-326-100-000

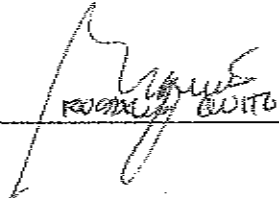
Represented by:

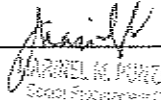
Represented by:

  
**HERNANDO C. APIGO**  
Assistant Vice President  
Procurement Department  
TIN: 210-735-638

  
**RAYMOND LLOYD YU SORIANO**  
Branch Manager  
TIN: 266-268-098-000

Signed in the presence of:

  
\_\_\_\_\_

  
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**PROCUREMENT  
DEPARTMENT**

19 AUG 28 04:11 PM



ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES )  
CITY OF QUEZON CITY

BEFORE ME, a Notary Public for and in the City of QUEZON CITY, on this  
\_\_\_\_\_ day of 26 AUG 2019 personally appeared:

NAME

GOVERNMENT ID NO.

RAYMOND LLOYD YU SORIANO

UNIFIED MULTI-PURPOSE ID  
CRDA 004-1065905-2

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

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

Doc. No. :                       
Page No. :                       
Book No. :                       
Series of 2019.

*[Signature]*  
ATTY. CONRADO M. VILLARENA  
Notary Public for Quezon City  
Until December 31, 2019  
PTR No. 7323642 - 1-03-2019/ QC  
IBP No. AR14460591 - 12-17-2018/ QC  
Roll No. 38457 - 05-09-80  
MCLE 5-0012536 - 12-21-2015  
Adm. Matter No. NP 270 (2018-2019)

*[Signature]*



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CORPORATE SECRETARY'S CERTIFICATE

I, **STEPHANIE KAREN C. NGO**, Filipino, of legal age, being the duly elected and qualified Corporate Secretary of **WESTERN MARKETING CORPORATION**, with business address at 34 Morato Street, San Francisco Del Monte, Quezon City, after having been duly sworn according to law, hereby depose and state:

That a Special Meeting of the Board of Directors of the Corporation held on June 7, 2019 at which meeting a *quorum* was present and acting throughout, the following resolution was unanimously approved:


**"RESOLVED**, that **CORPORATE SALES OFFICER, MR. RHOEL BAUTISTA** and/or Branch Manager, **MR. RAYMOND SORIANO**, are hereby *AUTHORIZED AND EMPOWERED* by **WESTERN MARKETING CORPORATION** to participate in the Supply Bidding for Three Lots Various Gift Certificates for Corporate Communications Department of the Philippine Amusement and Gaming Corporation with ITB No. PB19-04-041CORa-05.

**RESOLVED FURTHER**, **MR. RHOEL BAUTISTA** and **MR. RAYMOND SORIANO** shall also be authorized to *appear, represent and sign* documents for and in behalf of **WESTERN MARKETING CORPORATION** in pursuance of the said transaction.

**RESOLVED, FINALLY**, that this Resolution shall remain valid, subsisting and enforceable unless subsequently *modified, revoked, rescinded or superseded* by a resolution of the Board of Directors."

IN WITNESS WHEREOF, I have hereunto affixed my signature on this \_\_\_ day of June 2019 at Quezon City, Philippines.

20 JUN 2019  
Stephanie

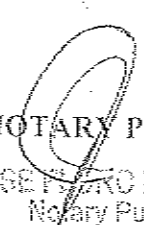
  
STEPHANIE KAREN C. NGO  
CORPORATE SECRETARY

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

20 JUN 2019

**SUBSCRIBED AND SWORN TO BEFORE ME**, this \_\_\_ day of June, 2019, *Ms. Stephanie Karen C. Ngo* personally appeared and showed to me her Drivers License No. N04-98-423494.

NOTARY PUBLIC

  
ATTY. JOSE MARCO P. CRISOLOGO  
Notary Public  
Until December 31, 2019  
Adm. Matter No. MP-083  
I.R. No. 7571918-C001-20-2015 C.C.  
RR (Professional) P. 01/04

M  
D