

SERVICE CONTRACT

This SERVICE CONTRACT is executed 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 Casino Filipino Cebu, Waterfront Cebu City Hotel and Casino, Salinas Drive, Lahug, Cebu City, represented in this act by its **BRANCH MANAGER, MA. CONSOLACION A. PASION**, hereinafter referred to as "PAGCOR";

-and-

KIT PROPERTIES INC., a corporation, duly organized and existing under the laws of the Republic of the Philippines, with office address at 9th Floor Trends Plaza, F. Ramos St. Brgy. Cogon, Cebu City, represented in this act by its authorized representative, **Ms. MARY ROSE O. FAJARDO**, Chief Operating Officer, duly authorized for this purpose by Ms. Ma. Lourdes S. Go, Corporate Secretary dated February 22, 2020, 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 Service Contract and to perform the Services and all of their obligations under this Service Contract.

RECITALS:

WHEREAS, PAGCOR requires a Procurement for the Supply and Delivery of Food and Beverage for CF-Cebu Parkmall for Marketing Events under ITB No. DC20-11-004CEB ("hereinafter referred to as "the Services");

WHEREAS, PAGCOR conducted public bidding in accordance with Republic Act (RA) No. 9184 (Government Procurement Reform Act) and its 2016 Revised Implementing Rules and Regulations (IRR) on November 4, 2020 for the procurement of the Services;

End-user

Branch Manager

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Supply and Delivery of Chinese Food and Beverage Requirements for Casino Filipino-Cebu
under ITB No. DC20-11-003CEB

WHEREAS, PAGCOR has accepted the bid 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

SCOPE OF UNDERTAKING

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

The Supplier must provide the following in bento box or disposable food containers:

- 1 Appetizer
- 1 Salad
- 3 Main Dishes
- Rice (Any Variety) and/or Roll (as required)
- 1 round of drinks (soda/iced tea/juice)
- Good for **416 persons**

The Supplier must also provide the following:

- Purified Drinking Water
- Dining Plates
- Spoon and Fork
- Tables (high/dining/buffet)
- Chairs (high/dining)
- Glasses (drinking/wine)
- Table Clothes
- Table Center Piece
- Chafing Dish
- Chafing Dish Warmers

Terms and Conditions

1. The CONTRACTOR must be able to meet the demands of the End-User in connection with the goods/services to be provided to its clients in accordance with the standards of PAGCOR.
2. The CONTRACTOR shall provide the goods/services duly approved by PAGCOR.
3. The CONTRACTOR should not exceed beyond the budget given by PAGCOR.
4. Number of Food to be served is subject to change the day before of event (it may increase or decrease depending on the number of attendees).
5. The CONTRACTOR shall ensure that the food will be prepared and cooked on the day of the delivery.
6. In case of suspension of work due to fortuitous events (i.e. inclement weather and its effects (e.g. storm surges, floods, etc.) fire, etc.) the caterer shall be advised of the cancellation of delivery until 7:00am of the actual delivery date.
7. No advice of cancellation of delivery before 7:00am of the actual date of delivery would mean a confirmation of the delivery.

End-user

BBAC Chairman

8. The **CONTRACTOR** should deliver/cater at Parkmall Satellite Casino.
9. The **CONTRACTOR** should deliver the items in good condition 2 hours before the event.
10. **PAGCOR** has the right to "Return" the spoiled/ fouled/defective items to the **CONTRACTOR**.
11. Both parties (**PAGCOR**, Marketing Section and **CONTRACTOR**) shall mutually approve any last minute changes (less than 1-day).
12. In the event of cancellation, the caterer shall be advised at one (1) day before the delivery date.
13. (Must present product sample) Food taste, presentation and other arrangement will be conducted for post-qualification purposes.
14. Payment will be processed upon submission of the statement of account with complete required attachments for audit purposes.

ARTICLE II

CONTRACT AMOUNT

The contract price for the Services shall be in the total amount **One Hundred Ninety-Nine Thousand Nine Hundred Ninety-Six and 16/100 Pesos (Php 199,996.16) Vat Exclusive, Zero rated transaction.**

Both **PARTIES** agree that the total price stated herein includes all applicable taxes, fees and charges required by the Philippine government. The **CONTRACTOR** holds **PAGCOR** free from liability for any or all taxes arising out of this transaction.

The prices herein agreed upon 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 **CONTRACTOR** based on the actual consumption amount **VAT-Exclusive, Zero-Rated Transaction**, within thirty (30) calendar days after receipt of the **CONTRACTOR's** monthly billing statement. All payments made shall be net of applicable withholding taxes.

ARTICLE IV

PERFORMANCE SECURITY

To guarantee the faithful performance of the **CONTRACTOR** of all of its obligations under this Service Contract, **PAGCOR** shall deduct from its monthly payments to the **CONTRACTOR** an amount equal to one (1) percent (1%) of its monthly payments. However, the total deductions shall not exceed the total amount of **One Thousand Nine Hundred Ninety-Nine and 96/100 Pesos (Php 1,999.96).**

The Warranty Security shall be retained by **PAGCOR**, without interest, during the pendency of this Service Contract and any extension thereof. The Warranty

End-user

BBAC Chairman

Security shall only be released after the termination of this Service 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.

ARTICLE V CONTRACT TIME

The Contract shall be for a period of six (6) months and shall commence on the effectivity date specified in the Notice to Proceed. Within this period, **PAGCOR** may terminate this Contract with or without cause, without need for judicial intervention, upon thirty (30) days written notice to the **CONTRACTOR**.

ARTICLE VI 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.

If the **PARTIES** fail to settle their differences or disputes, the **PARTIES** waiving for the purpose any other venue, hereby agree that the courts of the City of Manila shall be the exclusive venue of any or all actions or suits between the **PARTIES** to the exclusion of all other courts and venues. This 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.

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 VII INDEMNIFICATION

The **CONTRACTOR** hereby holds **PAGCOR** its guests, corporate affiliates, directors, officers, employees and agents free and harmless of any and all actions or liabilities arising out of this Service Contract, including, without being limited to, claims for unpaid and back wages, regularization and other terms and conditions of employment, as well as civil and criminal liabilities that the **CONTRACTOR** and/or **PAGCOR** may incur as a result of, or arising out of the conduct and/or pursuit of the Services. The **CONTRACTOR** shall indemnify **PAGCOR** for any costs which may arise from defending any action, suit or proceedings, including legal fees or other expenses incurred in relation to any such claims mentioned above.

End-user  EBAC Chairman 



The **CONTRACTOR** agrees to protect and to exercise due care and proper handling of the properties of **PAGCOR** during the performance of the Services. The **CONTRACTOR** shall be jointly and severally liable with its personnel and shall indemnify and hold **PAGCOR** free and harmless for any death, injury or damage to **PAGCOR** and to third person, loss, breakage or destruction of properties, as a consequence of the **CONTRACTOR** and its personnel's acts, omissions, willful intent or negligence in the performance of the Services or its obligations under this Service Contract.

The **CONTRACTOR** shall be liable in case of theft, robbery, or any loss to **PAGCOR** as a result of the Services provided by the **CONTRACTOR** and its personnel. The **CONTRACTOR** hereby agrees to replace, repair or restitute any loss involving its personnel and the performance of its Services.

ARTICLE VIII **DAMAGES FOR DELAY**

Should the **CONTRACTOR** incur delay in delivery and/or replacement of plants in accordance with Article I hereof, the **CONTRACTOR** shall pay a penalty of one-tenth of one percent (1/10 of 1%) of the total cost of the unperformed portion for every day of delay, including Sundays and Holidays, beyond the specific period.

In case the **CONTRACTOR** still fails to deliver and/or replace the plants after the lapse of thirty (30) days from the supposed date of delivery and/or replacement provided by **PAGCOR**, in addition to the penalties agreed upon, **PAGCOR** shall have the option to terminate the agreement.

ARTICLE IX **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 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.

End-user

BBAC Chairman

ARTICLE X
TAXES AND LICENSES

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

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 by the BIR and duly validated with the tax payments made thereon.

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 XI
NO EMPLOYER-EMPLOYEE RELATIONSHIP

There shall be no employer-employee relationship between **PAGCOR** and the employees of the **CONTRACTOR**. The **CONTRACTOR** shall have the entire charge, control and supervision of its employees. It shall be responsible for all acts and omissions of its employees and of all persons allowed by it to have access to **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 **PAGCOR**'s 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 work under this Contract shall likewise be the **CONTRACTOR**'s responsibility.

ARTICLE XII
MISCELLANEOUS

1. In the event that the facts and circumstances arise or are discovered which render this agreement 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. This Contract, and all the rights and interests herein, may not be assigned or subcontracted to another without the consent of the other **PARTY**.
3. 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.

End-user

BBAC Chairman

4. 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.
5. 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.
6. Any right or remedy conferred by this Contract upon the **PARTIES** shall not be exclusive of any other right or remedy, whether under this Contract or provided or permitted to the parties at law or in equity, but each right or remedy shall be cumulative of every other right or remedy available to them.
7. 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.
8. 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 nor 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.

End-user

BBAC Chairman

IN WITNESS WHEREOF, the Parties hereto have signed these presents
on this _____ day of _____, 2021 at _____

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

Represented by:



MA. CONSOLACION A. PASION
Branch Manager
TIN: 102-017-029-0000

KIT PROPERTIES INC.

TIN: 281-027-872-000

Represented by:



MARY ROSE O. FAJARDO
Operations Manager
TIN: 192-898-374

Signed in the presence of:

End-user

EBAC Chairman



ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
CEBU S.S.


BEFORE ME, this FEB 04 2021 in CEBU, personally appeared the following persons, each of whom exhibited his / her competent evidence of identity, to wit:

Name	Identification Document Presented
MA. CONSOLACION A. PASION (In her Capacity as Branch Manager of Casino Filipino-Cebu)	SSS ID 03-9772404-04
MARY ROSE O. FAJARDO Operations Manager	TIN: 192-892-374

known to me and known to be the same person who executed the foregoing instrument consisting of nine (9) pages, including the page whereon the acknowledgment is written and acknowledged before me that the same is their free and voluntary act and deed and that of the entities they represents.

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

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 Series of 2021


ATTY. LEO B. GAÑARES
 NOTARY PUBLIC
 SUITE 206, ADVENT BUSINESS CENTER
 139 ACACIA ST., KAMPUTAW, LARUG, CEBU CITY
 UNTIL DECEMBER 31, 2020
 EXTENDED TO JUNE 30, 2021
 SC D.M. NO. 3795
 IBP NO. AR24574695/ 01.04.21, CEBU CITY
 PIR NO. 1994120 / 01.04.21, CEBU CITY
 ROLL NO. 4156
 TIN: 217-124-200-000

End-user 

BBAC Chairman 