

SERVICE CONTRACT

This SERVICE 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 Waterfront Hotel and Casino, Salinas Drive, Lahug, Cebu City, represented in this act by its General Manager, RICARDO L. UY, hereinafter referred to as "PAGCOR";

and

EXI SYSTEMS+, INC., a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address 4B 4TH Floor, South Park Plaza, Lot 8 Block 4 Phase 1, Santiago St., Paseo de Magallanes, Makati City represented in this act by its Senior Vice President, ROBERT A. MANGROBANG, hereinafter referred to as "CONTRACTOR";

The parties warrant that they are fully capable and have the requisite power, authority, permits, clearances, and licenses, to enter into and perform their respective obligations under this Service Contract.

Recitals:

WHEREAS, PAGCOR has a requirement for the **Procurement of Two (2) Years Preventive Maintenance Services of the Existing 3x60 KVA UPS for Crown Satellite Casino** under ITB No. SV19-02-001CEB, hereinafter referred to as the "Services";

WHEREAS, PAGCOR resorted to Negotiated Procurement (Small Value Procurement) under *Section 53.9 of the Revised Implementing Rules and Regulation (IRR) of Republic Act 9184 (Government Procurement Reform Act)*, for the procurement of the Services and that all the requisites for the use of the aforementioned alternative mode of procurement have been met;

WHEREAS, the CONTRACTOR has submitted the single calculated and responsive quotation compliant with the specifications, terms and conditions of PAGCOR for the 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 mutual covenants and agreement hereunder specified, **PAGCOR** and the **CONTRACTOR** hereby enter into this Service Contract, under the following terms, conditions and specifications:

ARTICLE I
DESCRIPTION OF WORK/SERVICES

The **CONTRACTOR** shall undertake to provide the Services at Crown Satellite Casino in accordance with the Technical Specifications as detailed in the duly accomplished Request for Quotation submitted during the procurement of the Services which is attached as Annex "B" and made an integral part of this Service Contract.

If there is any conflict with the provisions of this contract and the duly accomplished Request for Quotation by the **CONTRACTOR** during the procurement process, the latter shall prevail.

ARTICLE II
CONTRACT TIME

This Service Contract shall be in force for a period of two (2) years and shall commence on the effectivity date provided in the Notice to Proceed. Within this period, **PAGCOR** may terminate this Service Contract with or without cause, without need for judicial intervention, upon thirty (30) days written notice to the **CONTRACTOR**.

The Termination of this agreement for any reason whatsoever shall not affect the accrued rights of the **CONTRACTOR** hereunder or release **PAGCOR** from any liability which at the time of such termination has already accrued to the **CONTRACTOR**. The **CONTRACTOR** shall continue to perform the services during the thirty (30) days notice period unless mutually agreed upon by the parties in writing. Upon termination of **PAGCOR**, **PAGCOR** shall pay the **CONTRACTOR** for all services performed and charges and expenses reasonably incurred by **CONTRACTOR** in connection with the services provided under this agreement prior to the date of termination.

ARTICLE III
CONTRACT AMOUNT

The Contract Price for the Services shall be in the total amount of **THREE HUNDRED EIGHTY-FIVE THOUSAND (PHP 385,000.00)**, VAT Exclusive, zero-rated transaction.

Both parties agree that the total price stated herein includes all applicable taxes, fees and charges required by the Government. The **CONTRACTOR** holds **PAGCOR** free from liability for any all taxes, fees and charges required by the Government 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 this Service Contract.

ARTICLE IV SCHEDULE OF PAYMENT

1. The **CONTRACTOR** shall submit to **PAGCOR** a service invoice upon completion of services rendered by the **CONTRACTOR**.

2. For every completed service, **PAGCOR** shall pay the **CONTRACTOR** a quarterly service fee in the amount of **FORTY-EIGHT THOUSAND ONE HUNDRED TWENTY FIVE PESOS (PhP 48,125.00)**, VAT-exclusive, zero-rated transaction, within fifteen (15) calendar days from receipt of the **CONTRACTOR's** billing statement, complete with attachments.

ARTICLE V INDEMNIFICATION

1. The **CONTRACTOR** will fully defend, protect and hold **PAGCOR**, its guest, corporate affiliates and any director, officer, employee or agent, free and harmless from 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 Services and to indemnify the **PAGCOR** from and against the costs of defending any action, suit or proceedings, including legal fees or other expenses incurred in relation to any such claims mentioned above.

2. The **CONTRACTOR** and its personnel shall be jointly and severally liable and shall indemnify and hold **PAGCOR** free and harmless for any death, injury or damage to **PAGCOR** and to third persons, loss, breakage, or destruction of properties, as a consequence of the **CONTRACTOR's** acts or omissions, willful intent or negligence, during the performance of the Services or its obligation under this Service Contract.

3. The **CONTRACTOR** shall be liable in case of theft, robbery or any loss to **PAGCOR** caused by the **CONTRACTOR's** personnel. The **CONTRACTOR** hereby agrees to replace, repair or restitute any loss involving its employees.

ARTICLE VI TAXES AND LICENSES

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

Upon request of PAGCOR, the CONTRACTOR shall regularly present, within the duration of the Service 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 payments for services rendered by the CONTRACTOR.

ARTICLE VII **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 all 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 services under this Service Contract shall be the CONTRACTOR's responsibility.

The CONTRACTOR further binds itself to hold PAGCOR free and harmless from any claim on account of the aforementioned injury or damage.

ARTICLE VIII **CLAIMS AND DISPUTE**

All claims and disputes relating to or arising out of this Service 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 exclusive venue provision shall apply even if this Service Contract is declared void, 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.

ARTICLE IX **DAMAGES FOR DELAY**

Should the CONTRACTOR incur delay in the performance of the Services, the CONTRACTOR shall pay a penalty of one-tenth of one percent (1/10 of 1%) of the unperformed portion for each day of delay, including Sundays and Holidays. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract. PAGCOR, in addition to the 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.



End User:  BBAC Chairman: 



In case the **CONTRACTOR** still fails to perform the Services after the lapse of thirty (30) days from the supposed date of implementation as provided by in Article II of this Service Contract, **PAGCOR** shall have the option to terminate the same, without prejudice to other courses of action and remedies available to it.

ARTICLE X DEFAULTS

In the events that any of the parties fail to comply in good faith with their undertakings, as set forth in this Service Contract, within the periods provided herein, the non-defaulting party shall be released from its obligations under this Service 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 VIII 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 XI WARRANTIES AND RESPONSIBILITIES

The **CONTRACTOR** hereby warrants that:

1. It is 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 Service Contract;
2. There are no actions, suits or proceeding 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 Service Contract or on its operations, business, properties, assets or business condition;
3. It has secured all the necessary government licenses and permits to allow it to render 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 rendering the said Service;
4. The **CONTRACTOR** will defend, protect, indemnify, and hold **PAGCOR** harmless from any all adverse claims that may be made by any party in connection with the rendition of the Services in Article I herein.

ARTICLE XII MISCELLANEOUS PROVISION

The parties agree to abide by the terms and conditions contained in this Service Contract in good faith.

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



this Service Contract disadvantageous to the Government, the parties hereto agree to immediately renegotiate its terms and conditions, or at the option of PAGCOR, terminate the same.

No terms or conditions of this Service 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 Service Contract, and the interests herein, may not be assigned or subcontracted 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 Service Contract.

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

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

Any right or remedy conferred by this Service Contract upon the parties shall not be exclusive of any other right or remedy of each party, whether under this Service 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.

The relationship between the parties shall be limited to the performance of the terms and conditions of this Service Contract. Nothing herein shall be construed to create a general partnership 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.

This Service 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 understanding of the parties. No. Supplement, variation or amendment of this Service Contract shall be binding unless executed in writing by the parties.

IN WITNESS WHEREOF, the parties hereto have signed these presents on this ___ day of _____, 2019 at the City of Cebu, Philippines

**PHILIPPINE AMUSEMENT
AND GAMING
CORPORATION**

TIN: 033-000-887-972

Represented by:




RICARDO L. UY
General Manager

EXI SYSTEMS+, INC.

TIN: 205-222-941-000

Represented by:



ROBERT A. MANGROBANG
Senior Vice President
TIN No. 129-785-162

Signed in the presence of:



ACKNOWLEDGMENT

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

BEFORE ME, this APR 30 2019 in MAKATI CITY personally appeared the following persons, each of whom exhibited his/her competent evidence of identity, to wit:

<u>NAME:</u>	<u>Government ID No.</u>
RICARDO L. UY	PAG-IBIG LOYALTY CARD NO. 1040-0250-5198
ROBERT A. MANGROBANG	PHILIPPINE PASSPORT No. P4234660A Expiry date: 08/30/2022

and presented to me an integrally complete Service Contract consisting of eight (8) pages, including this page, duly signed by the parties and their instrumental witnesses, for acknowledgment. They all represented and declared to me that they freely and voluntarily affixed their signatures on this Service Contract and they have the authority to sign in their respective capacities.

Doc. No. 420
Page No. 69
Book No. 21
Series of 2019.

[Signature]
ATTY. HENRY S. ADASA
 NOTARY PUBLIC CITY OF MAKATI
 UNTIL DECEMBER 31, 2019
 NOTARIAL COMMISSION 17-23
 IBP NO. 047427 / 01/03/2019 PASIG
 PTR NO. 5826667 / 01/03/2019 P.C.
 MCLE COMPLIANCE NO. VI-0002830 4/14/2022

End User: *[Signature]* BBAC Chairman: *[Signature]*