

RENEWAL OF CONTRACT OF LEASE

KNOW ALL MEN BY THESE PRESENTS:

This Contract of Lease is made and entered into this ____ day of ____, 2021 at Davao City, Philippines, by and between:

SOUTHDEV CORPORATION, a domestic corporation duly organized and existing under the laws of the Philippines with principal office address at No. 150, 5TH Street, Phase I, Ecoland Subdivision, Davao City, represented by its General Manager, **ERWIN C. BISNAR** hereinafter referred to as the "**LESSOR**",

-and-

SECURITIES AND EXCHANGE COMMISSION, a government agency created by virtue of Commonwealth Act No. 83, with office address at Secretariat Building, PICC Complex, Pasay City, represented herein by its Human Resource and Administrative Department Director **ROMUALD C. PADILLA**, duly authorized to sign this contract under SEC Office Order No. 270, Series of 2019, a copy of which is hereto attached as annexes "A", hereinafter referred to as the "**LESSEE**";

WITNESSETH:

WHEREAS, pursuant to Section 53 of the Implementing Rules and Regulations of Republic Act No. 9184 ("IRR"), Negotiated Procurement is a method of procurement of goods, infrastructure projects and consulting services, whereby the procuring entity directly negotiates a contract with technically, legally and financially capable supplier, contractor or consultant;

WHEREAS, Lease of Real Property and Venue (Section 53.10) is among the cases enumerated in the IRR where Negotiated Procurement is allowed;

WHEREAS, Section 53.10 of the IRR provides that Lease of Real Property and Venue is subject to the Guidelines on Lease of Real Property and Venue (the "Guidelines") under Annex H of the IRR;

WHEREAS, Government Procurement Policy Board (GPPB) Resolution No. 06-2018 introduced amendments to the Guidelines, to wit:

"i. Prior to the expiration of the lease contract, the end-user of the procuring entity must conduct a cost-benefit analysis of the lease. For instance, it must compare the rental rated charged by its lessor against other lessors in the area. It must also analyze whether entering into a new contract will be more expensive taking into consideration the cost of transfer and accessibility to the public. In assessing the existing lease, PEs are encouraged to consult relevant government agencies regarding any new policy or directive in the lease of real property.

ii. If the results of the CBA, conducted by the end-user, continue to favor the existing lessor, then the Head of Procuring Entity (HOPE) may simply renew its lease contract. If it does not, then the PE should procure a new lease contract in accordance with Section 53.10 of the IRR of RA 9184 and this guideline. For efficiency and economy, during the effectivity of the contract, or upon its renewal, the PE may consider the expansion or reduction of the space provided by the existing lessor, provided that the leased premises can accommodate the space requirements of the PE in case of expansion, based on the need of the PE and the best way which such need may be addressed and satisfied, subject to existing budgeting, accounting and auditing rules."

WHEREAS, it is within the mandate of the LESSEE to be the primary repository of all documents and records of all registered corporations and partnership;

WHEREAS, the LESSOR is the absolute owner of an office space, the whole second (2nd) floor of the Southdev Building with a total area of Seven Hundred Seventy Two and Seventy Three


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square meters (772.73 sqms) identified in the layout model, attached hereto as Annex "A", hereinafter collectively referred to as the "Leased Premises";

WHEREAS, the **LESSEE**, has accepted the offer of the **LESSOR** to lease the Leased Premises, identified as SD Door Numbers 1 to 7 or the whole of the second (2nd) floor, subject to the following terms, conditions and stipulations of the parties;

WHEREAS, by means of Section 53.10 of the IRR, the PARTIES entered into a Contract of Lease for a term of one (1) year (May 27, 2019 – May 26, 2020) on May 27, 2019;

WHEREAS, the OIC-Director of SEC-Davao Extension Office (the End-user) thru Davao Extension Office BAC and TWG, conducted a cost-benefit analysis of available office spaces for lease in Davao, the result of which favors the LESSOR, and subsequently recommended the renewal of the lease contract to the Commission thru its Memorandum dated May 7, 2021;

WHEREAS, in view of the recommendation of the End-User, the **LESSEE**, through the Head of Procuring Entity, approved the recommendation of the Bids and Awards Committee (BAC), to award the renewal of the original lease contract for SEC-Davao Extension Office to the **LESSOR**;

WHEREAS, the **LESSOR** is willing and able to lease the Leased Premises, identified as SD Door Numbers 1 to 7 of the whole of the second (2nd) floor to the **LESSEE** to serve as the latter's Davao Extension Office;

WHEREAS, the **LESSOR** is considered a qualified lessor under applicable laws and procedure for Negotiated Procurement;

NOW THEREFORE, in view of the foregoing premises, and the mutual covenants and undertakings hereinafter provided, the parties hereto have agreed as follows:

NOW THEREFORE, for and in consideration of the foregoing, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. **PERIOD.** – This Renewal of Contract of Lease shall be for a period of one (1) year, effective on May 27, 2021 and shall end on May 26, 2022, unless sooner terminated upon thirty (30) –days prior to written notice to the other party.

a. **EXTENSION OF CONTRACT OF LEASE-** The LESSEE as its interest may require shall further extend the Contract of the incumbent LESSOR after consuming the one (1) year Contract, on a monthly basis, under the same terms and conditions, until such time that a new service provider has been selected by SEC in accordance with GPPB Resolution No. 23-2007 (Guidelines on the Extension of Contract for General Support Services). In no case shall the lessor padlock the Leased Premises considering that the SEC is repository of documents and reports by other government agencies and the courts, and uninterrupted access to said documents is necessary for the smooth and effective operations of the SEC is rendering service to the public. In the event that no service provider has been awarded during the extension period, any rental/fees paid shall be on *quantum meruit* basis.

b. The **LESSOR** shall ensure the free and uninterrupted access by the **LESSEE** or any of its authorized representatives to the Leased Premises even beyond the effectivity of this Contract of Lease for the purpose of manageable and safe transfer to another location of all SEC records and other SEC equipment kept therein.

2. **RENTAL.** -

a) The parties herein agree that the LESSEE shall pay the LESSOR a monthly rental rate of Three Hundred Forty-Eight Thousand Four Hundred Thirty-Three Pesos and Twenty-Three Centavos (P348, 433.23), inclusive of VAT and cost of parking slots.

b.) The amount of rent shall be fixed and not subject to price escalation except under "extraordinary circumstances" and upon approval of the Government Procurement Policy Board (GPPB).



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Extraordinary circumstances shall refer to events that may be determined by the National Economic Development Authority (NEDA) in accordance with the Civil Code of the Philippines and upon recommendation of the **LESSEE**.

3. **WATER, ELECTRIC CURRENT, DUES, ETC.** – All expenses for water, electric current, telephone, if any, garbage fees, security and maintenance of Leased Premises shall be for the account of the **LESSEE**.
4. **PURPOSE.** – The **LESSEE** shall exclusively use the Leased Premises, namely, SD Doors No.1 to 7 or the whole second (2nd) floor, as an office, and shall not divert the Leased Premises to other uses without prior written consent of the **LESSOR**.
5. **IMPROVEMENT, INSTALLATION, ALTERATIONS, ETC.** –
 - a) The **LESSEE** may introduce changes, alterations or improvements in the Leased Premises but with the prior consent of the **LESSOR**, which shall not be unreasonably withheld. Upon termination of this Contract of Lease, all such alterations, additions, installations or other improvements made by the **LESSEE** at its own expense which may be removed without defacing or injuring the walls or partitions of the Leased Premises shall remain properties of the **LESSEE**. All equipment which are important to the operation of the **LESSEE** that would otherwise turn into real property by mere attachment to the floor or walls shall also remain properties of the **LESSEE**.
 - b) The **LESSEE** shall employ only the services of a licensed electrician in the installation of additional electrical appliances, such as water coolers, office refrigerators, electric fans, etc., wherein extra outlets will be needed.
 - c) The **LESSEE** shall be allowed to put up appropriate signage, the location of which shall have prior clearance of the **LESSOR**, which should not be unreasonably withheld.
6. **SANITATION AND REPAIRS.** - The **LESSEE** shall always keep the Leased Premises in a clean and sanitary condition, free from obnoxious odors, disturbing noises or other nuisances.
7. **FIRE, HAZARD AND OBNOXIOUS SUBSTANCE.** – The **LESSEE** shall not keep, deposit or store in the Leased Premises any inflammable material or substance that might constitute a fire hazard unless the necessary preventive equipment is provided by the **LESSEE**.
8. **TAXES AND INSURANCE.** – The **LESSOR** shall pay any and all taxes, such as real estate taxes, charges, assessments fire insurance charges and other duties imposed on the real property subject of this lease by national or local government authorities.
9. **INSPECTION OF PREMISES.** – The **LESSOR** shall maintain the Leased Premises in good and tenable condition and for such purposes, the **LESSOR** reserves the right, at reasonable time and with advance prior written notice to the **LESSEE**, to enter the Leased Premises in the presence of the **LESSEE** or its representative and to inspect or make repairs thereon.
10. **FORCE MAJEURE.** –
 - a) if the Leased Premises shall be damaged by *force majeure* or other cause without the fault or negligence of the **LESSEE**, or its employees, agents, clerks, servants or visitors, the damage shall be repaired at the expense of the **LESSOR**, as speedily as possible after such notice; but if the property or Leased Premises be or nearly destroyed as to make it untenable, without the fault or neglect of the **LESSEE**, the **LESSEE** may demand the rescission of this Contract of Lease.
 - b) In the event of occurrence of a condition of *force majeure*, either party shall notify the other in writing or by the fastest means available within seven (7) days from the commencement of such condition and shall exercise due diligence to prevent or contain further damage or loss brought about by such events.
 - c) No party shall be liable for any delay or failure in the performance of its obligations under this Contract of Lease resulting from *force majeure* and without any fault or negligence on its part.



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d) The party claiming *force majeure*, who is indefinitely unable to carry out any of its obligations herein, may request the other to suspend or to terminate this Contract of Lease. Consent for such suspension shall not be construed to preclude the termination of this Contract of Lease.

e) *Force majeure* under this Contract of Lease shall include, but is not limited to, floods, earthquakes, cyclones, fires, insurrection, rebellion, riots, civil disorders, labor strikes, acts of the government, acts of God, and other similar causes beyond the control of either party, which events prevent the performance of their respective obligations under this Contract of Lease.

11. **ASSIGNMENT, SUBLEASE AND TRANSFER OF RIGHTS.** – The **LESSEE** shall not assign or transfer its rights under the terms and conditions of this Contract of Lease nor sublease all or any part of the Leased Premises without prior written consent of the **LESSOR** which should not be unreasonably withheld, and no right, title or interests thereto or therein shall be conferred on or vested other than the **LESSEE** without such written consent.

12. **COMPLIANCE WITH LAWS.** – The **LESSOR** hereby represents and warrants that the real property taxes on the land and Building, where the Leased Premises are located, are regularly paid in full and on time.

13. **RIGHT TO SELL AND/OR EXPROPRIATION, PARTIAL CONDEMNATION.** -

a) The **LESSEE** recognizes the right of the **LESSOR** to sell the Leased Premises, however, in the event of sale, the prospective vendee shall respect and observe in its entirety this Contract of Lease. In which case, this lease shall be annotated on the original of the Transfer Certificate of Title covering the Property on file with the Register of Deeds of Davao City.

b) In the event that expropriation proceedings are instituted during the period of this lease by any instrumentality of the government or any other entity with the authority to exercise such power, the **LESSEE** may rescind this Contract of Lease should the Leased Premises become no longer useful for the purpose of this lease, upon giving the other party thirty (30) days prior written notice thereof.

c) In case of partial condemnation of the Lease Premises but the Property or Leased Premises are still tenable or fit for the use of the **LESSEE** and the lease continues in effect, the **LESSEE** may elect to vacate the Leased Premises or let the **LESSOR** repair, alter or restore the remaining part of the Property and the demised premises and to substantially restore the premises in their tenable condition. The rent shall be abated during said repair, alteration and restoration in proportion to the portion, if any, of the demised premises rendered untenable thereby.

14. **RULES AND REGULATION.**

a) The **LESSEE** agrees to abide by all the laws and other existing rules and regulations promulgated by the barangay, city of government and other government agencies, or other laws, ordinances, rules and regulations promulgated by competent authorities affecting the occupancy of the Leased Premises.

b) The **LESSOR** warrants that the Property where the Leased Premises are located conforms to the principles of safe construction, sound structure, and suited for the purpose for which it was designed, as provided for by law.

c) The **LESSOR** shall be solely responsible for any structural defects of the Leased Premises and for any damage to persons or properties resulting from or as a consequence of such defects.

15. **ARBITRATION AND GOVERNING LAW.** – For purposes of amity between the parties, any dispute, controversy, invalidity, breach or claim arising out of or relating to this contract shall first be settled amicably by the parties within thirty (30) working days from written offer of amicable settlement by either of the parties. Any dispute, controversy, invalidity, breach or claim arising out of or relating to this contract which shall be not settled by way of amicable agreement with the aforementioned prescribed period shall be settled and submitted to arbitration in accordance with the provisions of Republic Act No. 9285, otherwise known as "The Alternative Dispute Resolution Act



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of 2004", in relation to Republic Act No. 876, otherwise known as the "Arbitration Law".

The Arbitration Board shall consist of three (3) persons; one person designated by each party and the third person to be selected by the two (2) designated representatives; provided further, that by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution as provided for in the Republic Act No. 9285.

16. **TERMINATION.** – Each party shall have the right to terminate this Contract of Lease should the other party violate any of its terms and conditions, and such violation is not cured within thirty (30) days from receipt of written notice of such violation.

17. **VENUE OF ACTION.** – In case either party would bring an action to protect their respective rights under this Contract of Lease, the venue shall be in the appropriate court of Pasay City.

18. **AMENDMENTS.** – Any amendments, changes, alterations or additional terms in this Contract of Lease shall be valid if made in writing and duly signed by the parties.

19. **SEPARABILITY CLAUSE.** – If any paragraph or part of this contract is declared contrary to law, public policy or otherwise declared invalid, such shall not affect the other paragraphs, subparagraphs or part of this Contract of Lease.

20. **SUPERSEDING CLAUSE.** – This Contract of Lease supersedes and renders void any and all agreements and undertakings, oral or written, which may have been entered into by and between the parties, the same being considered as having been merged herein.

IN WITNESS WHEREOF, parties herein affixed their signatures on the date and place above written.

SECURITIES AND EXCHANGE COMMISSION
TIN: 000-190-308-000

SOUTHDEV CORPORATION
TIN: 453-929-246-000


Signing for, and in Behalf of the Chairperson

By:



ROMUALD C. PADILLA
OIC-HRAD
TIN: 928-473-208-000

By:



ERWIN C. BISNAR
Proprietor
TIN: 920-526-082-000

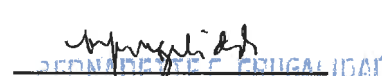
Signed in the presence of:

By:



ATTY. KATRINA JAMILLA B. PONCO-ESTARES
Witness

By:



BERNADETTE E. FRUGALIDAD
Witness

Certified Funds Available:



ADELAIDA C. NAVARRO-BANARIA
Director, FMD



ACKNOWLEDGEMENT

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

BEFORE ME, a Notary Public for and in the City of PASAY on this 22 day of October 2021, personally came and appeared the following; and presenting competent evidence of identity, as follows:


<u>Name</u>	<u>Evidence of Identity</u>
ROMUALD C. PADILLA	TIN: 170-266-059-000


Known to me and to me known to be the same person who executed the foregoing Contract of Lease for and behalf of the Securities and Exchange Commission (LESSEE) and he acknowledged to me that the same is his free and voluntary act and deed as well as that of the government agency he represents.

This Contract of Lease consisting of Seven (7) pages, including the page on which this acknowledgement is written, has been signed by the party and his instrumental witness each and every page thereof and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at the place and on the date first above written.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2021


ERWIN C. BISNAR


Atty. Jenny Lou F. Decano
Administering Officer
SEC, Securities Counsel II
Securities and Exchange Commission
Republic of the Philippines

ACKNOWLEDGEMENT

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

BEFORE ME, a Notary Public for and in the City of Davao on this AUG 24 2021 day of _____ 2021, personally came and appeared the following; and presenting competent evidence of identity, as follows:

<u>Name</u>	<u>Evidence of Identity</u>
ERWIN C. BISNAR	TIN: 920-526-082-000

Known to me and to me known to be the same person who executed the foregoing Contract of Lease for and behalf of the Southdev Corporation (LESSOR) and he acknowledged to me that the same is his free and voluntary act and deed as well as that of the corporation he represents.

This Contract of Lease consisting of Sever (7) pages, including the page on which this acknowledgement is written, has been signed by the party and his instrumental witness each and every page thereof and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at the place and on the date first above written.

Notary Public

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Page No. 27 ;
Book No. 201 ;
Series of 2021

Godofredo M. Duremdes III
GODOFREDO M. DUREMDES III
NOTARY PUBLIC FOR DAVAO CITY
COMMISSION No. 2021-105-2022
ROLL OF ATTY. No. 40454; PTR No. 4796732; 12-28-20
MCLE COMPLIANCE No. 0028543; 09-02-19

Erwin C. Bisnar
ERWIN C. BISNAR