

CONTRACT OF LEASE

KNOW ALL MEN BY THESE PRESENTS:

This **CONTRACT OF LEASE** is made and entered into this 21st day of March 2023 by and between:

SAN PABLO MANUFACTURING CORPORATION (hereinafter referred to as "SPMC"), a government owned and controlled corporation duly organized and existing under and by virtue of the laws of the Philippines, with office address at 16th Floor, SEC Headquarters, 7907 Makati Avenue, Salcedo Village, Barangay Bel-Air, Makati City, Philippines, represented herein by its Acting President and Chief Executive Officer, **CARLO LUIS P. RABAT**, duly authorized for the purpose of this Contract of Lease;¹

-and-

PROSEC CORPORATION, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with office address at the 11th Floor, SEC Headquarters, 7907 Makati Avenue, Salcedo Village, Barangay Bel-Air, Makati City, Philippines, represented herein by its President, **FILBERT CATALINO F. FLORES III**, duly authorized for the purpose of this Contract of Lease;²

[SPMC and PROSEC CORPORATION are individually referred to herein as "Party" and collectively as "Parties"]

ANTECEDENTS

WHEREAS, SPMC is a non-chartered government owned and controlled corporation. It is one of the six oil mill/refinery companies comprising the Coconut Industry Investment Fund Oil Mills Group ("CIIF-OMG") under the Office of the President;

WHEREAS, SPMC is in need of a parking space in Makati City for its company-owned vehicle/s and for purposes associated with the legitimate conduct of its business;

WHEREAS, considering that there are no publicly-owned parking spaces that comply with the requirements of SPMC,³ and that resort to a privately-owned parking space is more efficient and economical to the government, the Bids and Awards Committee, pursuant to Section V, paragraph D, subparagraph 9 (Lease of Real Property and Venue) of the Implementing Rules and Regulations of the Government Procurement Act, and with due regard with the Policy Considerations espoused therein, proceeded to conduct the procurement covering the lease of the said private parking space;

WHEREAS, the corresponding Request for Quotation for the lease of parking space was posted on the CIIF-OMG website, bulletin board and at the company premises from 10 February 2023 to 17 February 2023,⁴

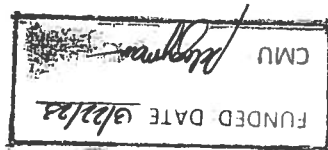
WHEREAS, the said Request for Quotation was sent through electronic mail to three (3) prospective lessors namely: (1) **PROSEC CORPORATION**, (2) **PRIMEX REALTY CORPORATION**, and (3) **PARADA.PH**.

- ¹ A copy of the Board Resolution authorizing Mr. Carlo Luis P. Rabat to sign this Contract of Lease is attached hereto as **Annex "A"**.
- ² A copy of the Board Resolution authorizing Filbert Catalino F. Flores III to sign this Contract of Lease is attached hereto as **Annex "B"**.
- ³ A copy of the Certification of the LGU is attached hereto as **Annex "C"**.
- ⁴ A copy of the Request for Quotation is attached hereto as **Annex "D"**.

Carlo Luis P. Rabat

Filbert Catalino F. Flores III

Carlo Luis P. Rabat



WHEREAS, only PROSEC CORPORATION submitted a price quotation before the deadline on 17 February 2023 at 10:00 a.m.;⁵

WHEREAS, PROSEC CORPORATION'S price quotation was opened at 1:30 p.m. of 17 February 2023 with PROSEC CORPORATION being found as the Lessor with the Single Calculated Quotation;

WHEREAS, the parking space offered by PROSEC CORPORATION was rated in accordance with the technical specifications and the reasonableness of the price quotation was determined in accordance with the pertinent rules;⁶

WHEREAS, pursuant to the Technical Working Group's determination of the responsiveness and reasonableness of the quotation of PROSEC CORPORATION, the Bids and Awards Committee recommended to:

LEASE OF PARKING SPACE
SPMC, GRANEX & LEGOIL

BAC Recommendation:

The BAC resolved to recommend for the approval of the Head of Procuring Entity (HOPE) to award the contract to PROSEC Corporation for the Lease of Parking Space at Head Office for 12 months period for:

1. San Pablo Manufacturing Corporation – Eight Hundred Twenty-Eight Thousand Pesos (Php 828,000.00) for 10 slots;
2. Granexport Manufacturing Corporation – Eighty-Two Thousand Eight Hundred Pesos (Php 82,800.00) for 1 slot; and
3. Legaspi Oil Company, Inc. – Four Hundred Fourteen Thousand Pesos (Php 414,000.00) for 5 slots

WHEREAS, in accordance with the said recommendation of the Bids and Awards Committee, SPMC's Board of Directors awarded the Contract for Lease of Parking Space/s;⁷

WHEREAS, the corresponding Notice of Award was issued to PROSEC CORPORATION, with PROSEC CORPORATION accepting the award;⁸

WHEREAS, SPMC's urgent need of said parking space would require that this Contract of Lease be immediately signed and executed subject to the revisions and comments of the Office of the Government Corporate Counsel.

NOW THEREFORE, for and in consideration of the foregoing premises, the Parties hereby agree as follows:

1. **RULES OF CONSTRUCTION**

- 1.1. Unless otherwise stated in this Contract of Lease, references to parts, clauses and annexes are to be construed as references to the parts, clauses and annexes of this Contract of Lease.
- 1.2. The headings are for ease of reference only and shall not affect the interpretation of this Contract of Lease.
- 1.3. References to the singular include the plural and *vice versa*.

⁵ A copy of PROSEC's Price Quotation and associated documents is attached hereto as Annex "E".

⁶ A copy of the Report of the Technical Working Group (Rating Factors and Determination of Reasonableness of Rental Rates) is attached hereto as Annex "F".

⁷ A copy of the Board Resolution awarding this Contract of Lease to PROSEC is attached hereto as Annex "G".

⁸ A copy of the Notice of Award is attached hereto as Annex "H".

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1.4. The following documents as required by the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184 shall be deemed to form and be read and construed as integral part of this Agreement, viz.:

- i. Request for Quotation;
- ii. The bid of the Winning Bidder, PROSEC CORPORATION, including the Eligibility requirements, Technical and Financial Proposals, and all other documents or statements submitted;
- iii. Notice of Award of Contract; and the Bidder's conforme thereto; and
- iv. Other contract documents that may be required by existing laws and/or the Procuring Entity concerned. Winning bidder agrees that additional contract documents or information prescribed by the GPPB that are subsequently required for submission after the contract execution, such as the Notice to Proceed, shall likewise form part of the Contract.

2. THE SUBJECT PROPERTY

2.1. PROSEC CORPORATION hereby transfers and conveys by way of lease the following property:

Number of Slot/s	Area	Location
10 slots	12.5 square meters per slot	Basement 2-6, Forbes Tower Condominium, Valero St., Salcedo Village, Bel -Air, Makati City

3. DELIVERY OF SUBJECT PROPERTY

3.1. PROSEC CORPORATION shall immediately turn over to SPMC the actual and physical possession of the Subject Property within a period of ten (10) days from PROSEC CORPORATION's receipt of the Notice to Proceed in accordance with the requirements specified in the technical specifications prescribed in the Request for Quotation

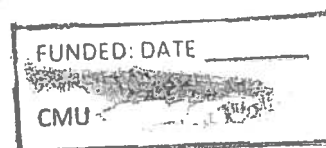
PROSEC CORPORATION shall ensure SPMC's peaceful and continued possession of the Subject Property during the Lease Term.

3.2. Liquidated damages equivalent to one-tenth (1/10) of one percent (1%) of the total rent under the Contract of Lease shall be imposed on PROSEC CORPORATION per day of delay in the delivery of the Subject Property. SPMC shall rescind this Contract of Lease once the cumulative amount of liquidated damages reaches ten percent (10%) of the total rent under the Contract of Lease without prejudice to other courses of action and remedies available.

4. LEASE TERM

4.1. The Lease Term shall be for a period of TWELVE (12) MONTHS commencing within a period of seven (7) days from receipt of the Notice to Proceed.

Subject to the provisions of the pertinent laws, the lease may be renewed for another term with the same terms and conditions of the prevailing lease, which shall be based on Fair Market Value at the time of the negotiations. Fair Market



Value shall be defined as the prevailing rent and escalation at the comparable space in the area.

5. MONTHLY RENTAL

5.1. For the lease of the Subject Property, SPMC shall pay rental for each parking slot in the amount of SIX THOUSAND NINE HUNDRED PESOS (Php 6,900.00) per month inclusive of all government taxes and other fees and charges.

SPMC shall deduct the appropriate withholding tax from the Monthly Rental and remit it directly to the Bureau of Internal Revenue.

SPMC shall pay the Monthly Rental within fifteen (15) days from receipt of the required supporting documents (i.e. Purchase Order/Contract and Billing Statement) from PROSEC CORPORATION.

6. MANNER OF PAYMENT

6.1. SPMC shall pay the Monthly Rental to PROSEC CORPORATION in the form of check from a reputable bank.

All rental payments shall be payable to "PROSEC CORPORATION".

6.2. PROSEC CORPORATION shall pay taxes in full and on time and that failure to do so will entitle SPMC to suspend payment of the rentals due to PROSEC CORPORATION.

PROSEC CORPORATION shall regularly present, within the duration of the Contract of Lease, a tax clearance from the Bureau of Internal Revenue and the Local Government Unit concerned, as well as a copy of its income and business tax returns duly stamped and received by the Bureau of Internal Revenue and duly validated with the tax payments made thereon.

7. USE OF THE SUBJECT PROPERTY

7.1. PROSEC CORPORATION hereby allows SPMC to use the Subject Property as parking space and shall not be converted into another use without prior authority from the PROSEC CORPORATION.

8. PEACEFUL POSSESSION

8.1. SPMC shall have the right to peaceful possession of the Subject Property. In case the Lease Term is disturbed and/or SPMC, in any way, is deprived of the right to exclusively possess, develop, use, enjoy and/or control the Subject Property through no fault of its own, the Lease Term shall be adjusted or extended for such period that the lease was disturbed and/or SPMC was deprived of possession, control and/or enjoyment thereof.

Further, in the event that SPMC shall be disturbed and/or in any way, deprived of the right to exclusively possess, develop, use, enjoy and/or control the Subject Property during the Lease Term without fault on its part, SPMC shall have the right to suspend payment of the rentals during such disturbance. PROSEC CORPORATION further acknowledges that SPMC shall be released from paying any such rental(s) for the portion corresponding to the period(s) during which SPMC was prevented from exercising its rights under this Agreement for fault attributable to PROSEC CORPORATION.

9. FORCE MAJEURE

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- 9.1. The Parties shall not be held liable for any delay in or failure of performance of the obligations in this Agreement if such delay or failure arises from or are the consequence of *force majeure* or fortuitous event; provided, that the Parties have taken proper precautions, due care and reasonable alternative measures to avoid or otherwise minimize the delay or failure; and, provided, further, that the party in default shall, within 30 calendar days from the occurrence of the *force majeure*/fortuitous event, give notice of it to the other party including sufficient information as to the cause and shall resume performance of its obligations as soon as the effects of the *force majeure* or fortuitous event abate.

To constitute *force majeure* or fortuitous event, all the following elements must concur: (a) the cause of the unforeseen and unexpected occurrence or of the failure of the Party to comply with its obligation must be independent of human will; (b) it must be impossible to foresee the event that constitutes the *fortuitous event* or, if it can be foreseen, it must be impossible to avoid; (c) the occurrence must be such as to render it impossible for the Party to fulfill obligations in a normal manner; and, (d) the Party must be free from any participation in the aggravation of the injury or loss.

10. REPRESENTATIONS AND WARRANTIES

10.1. Each Party hereby represents and warrants to the other party that:

- a. This Contract of Lease constitutes all legal, valid and binding obligations of the Parties enforceable in accordance with its terms and conditions; and
- b. The respective obligations of the Parties under this Contract of Lease will be performed by them with promptness and diligence and shall be executed in a quality manner consistent with relevant standards of the trade or business involved.

10.2. PROSEC CORPORATION represents and warrants to SPMC that:

- a. PROSEC CORPORATION is in possession and control of the Subject Property and there are no leases, subleases, licenses, concessions or other agreements, written or oral, granting to any party or parties the right to use or occupy the Subject Property;
- b. PROSEC CORPORATION is not a party to any other contract, agreement, or arrangement whether written or oral, with any third party in relation to or affecting the Subject Property;
- c. There are no pending cases, litigation, suits, actions, proceedings, involving the Subject Property and there is no adverse claim affecting its title or rights of ownership and possession over the same;
- d. There are no outstanding obligations or rights of first refusal to purchase the Subject Property, or any portion thereof or interest thereon, as of the date of execution of this Contract of Lease;
- e. PROSEC CORPORATION shall ensure SPMC's peaceful and continued possession of the Subject Property during the Lease Period; and
- f. PROSEC CORPORATION has not given any money or gift of value to any employee/official of SPMC or CIIF-OMG to secure this Contract of Lease.

FUNDED DATE _____
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10.3. Each Party hereby represents and warrants to the other Party that each of the representations and warranties set forth in this Contract of Lease shall be true and correct for as long as this Contract of Lease is in effect, except as otherwise provided for under this Contract of Lease.

11. DISPUTE SETTLEMENT

11.1. This Contract of Lease shall be valid and binding upon the Parties, their heirs, assigns, executors, and successors-in-interest. If any dispute or difference of any kind whatsoever shall arise between the parties in connection with the implementation of this Contract of Lease, the Parties shall make every effort to resolve amicably such dispute or difference by mutual consultation. Any and all disputes arising from the implementation of this Contract of Lease shall be submitted to arbitration in the Philippines according to the provisions of R.A. 876, otherwise known as the "Arbitration Law" and R.A. 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004". The parties may also resort to other alternative modes of dispute resolution.

11.2. In case of the failure to resolve the dispute/s arising from this Agreement through arbitration or other alternative modes of dispute resolution, the said dispute shall be filed with the appropriate trial court. Venue of any court action with respect to this Agreement shall be the proper courts of Makati City only, to the exclusion of all other courts.

12. GENERAL PROVISIONS

12.1. The Parties agree that all representations and covenants found here are deemed essential conditions of this Agreement.

12.2. The Parties agree to abide by the terms and conditions of this Agreement in good faith.

12.3. No omission by any party to require the performance by the other party of any of the terms or conditions of this Agreement nor any forbearance or indulgence granted or shown by any party to the other shall release, discharge or in any manner affect or prejudice the right of a party at any time to require strict and full performance by the other of any or all of the terms or conditions to be observed or performed hereunder.

12.4. The failure of one party to insist upon a strict performance of any of the terms, conditions and covenants here shall not be deemed a relinquishment or waiver of any right/ remedy that such party may have, nor shall it be construed as a waiver of any subsequent breach of the same or other terms, conditions and covenants. No waiver by any one party of any of its rights under this Agreement shall be deemed to have been made unless expressed in writing and signed by that Party.

12.5. Nothing herein shall be construed as to create a relationship of partnership, joint venture, or agency between the Parties here and no agent, employee or contractor of either Parties here shall be deemed to be the agent, employee, or contractor of the other.

12.6. Philippine law shall govern this Agreement in all aspects.

12.7. Any provision of this Contract of Lease that is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement.

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[Signature]

[Signature]

[Signature]

[Signature]

FUNDED DATE _____
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- 12.8. This Contract of Lease shall be binding on and shall inure to the benefit of the Parties and their successors-in-interest.
- 12.9. This Agreement may only be modified or amended upon mutual agreement of the Parties by an instrument in writing signed by both Parties in accordance with the provisions of pertinent laws.
- 12.10. Except for disclosures required under the laws, rules and regulations of the Republic of the Philippines or other applicable jurisdiction or pursuant to valid and enforceable orders of courts or other governmental agencies with jurisdiction over the subject matter of this Contract of Lease, no party shall, without the prior written consent of the other party, make any disclosure to a third party of any information relating to this Contract of Lease, any of the terms contained here, or any information, reports or filings required under the terms of this Contract of Lease. Each party undertakes in favor of the other that it shall use (and shall procure that each of its nominees, agents, assigns, subsidiaries, affiliates, directors, and employees shall use) all reasonable endeavors to keep confidential any and all information relating to this Contract of Lease. This provision shall survive the termination of this Contract of Lease. Each Party's obligation of confidence here shall be fulfilled using the same degree of care with the other party's confidential information as it uses to protect its own confidential information.

13. OGCC REVIEW

- 13.1. This Contract of Lease shall be subject to the review and approval of the Office of the Government Corporate Counsel. Any of its ensuing comments, recommendations, or directives shall form part of this Agreement.

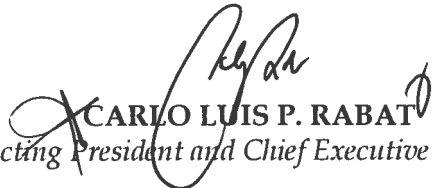
IN WITNESS WHEREOF, the Parties hereto have caused this Contract of Lease to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.

SAN PABLO MANUFACTURING CORPORATION

PROSEC CORPORATION


By:

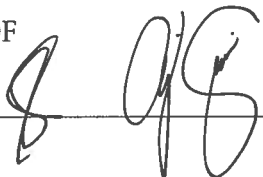
By:


CARLO LUIS P. RABAT
Acting President and Chief Executive Officer


FILBERT CATALINO F. FLORES III
President and Authorized Representative

SIGNED IN THE PRESENCE OF





FUNDED: DATE _____
CMU _____

8/11/11

A C K N O W L E D G M E N T

REPUBLIC OF THE PHILIPPINES)
Makati City) S.S.

BEFORE ME, a Notary Public for and in the following: MAR 27 2023 personally appeared the

<u>Name</u>	<u>Government Issued I.D.</u>	<u>Number</u>
CARLO LUIS P. RABAT	Driver's License	L02-86-029042
FILBERT CATALINO F. FLORES III	Passport	P7635879B

known to me and to me known to be the same persons who executed the foregoing **CONTRACT OF LEASE** and acknowledged to me that the same is of their free and voluntary act and deed and that of the Corporations they represent.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 21st day of March 2023 at **MAKATI CITY**

Doc. No. 93 ;
Page No. 20 ;
Book No. 3 ;
Series of 2023.

ATTY. JOEL FERRER FLORES
NOTARY PUBLIC FOR MAKATI CITY
UNTIL DECEMBER 31, 2023 (2023-2024)
APPOINTMENT NO. M-115
ROLL NO. 77376 / MCLE (EXEMPT)
PTR NO. 9563564 / JAN. 03, 2023 / MAKATI CITY
IBP NO. 261994 / JAN. 03, 2023 / PASIG CITY
1107 D. BATAAN ST., GUADALUPE NUEVO, MAKATI CITY

Carlo

[Handwritten signatures]

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