

## RESOLUTION NO. 3220

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY TO WAIVE COMPETITIVE BIDDING PROCEDURES INDICATED IN THE SALISBURY CITY CHARTER § SC16-3, AND TO AUTHORIZE THE MAYOR TO ENTER INTO, ON BEHALF OF THE CITY OF SALISBURY, A LEASE AGREEMENT WITH DEVRECO, LLC, SETTING FORTH THE TERMS AND CONDITIONS GOVERNING THE LEASE OF 115 SOUTH DIVISION STREET, SALISBURY, MD.**

**WHEREAS**, the Mayor and Council of the City of Salisbury (the “**Council**”) determined there is a need to lease office space owned by Devreco, LLC, (the “**Landlord**”) that is available for lease; and,

**WHEREAS**, the Landlord is the owner of all that certain real property identified as Map 0107, Grid 0014, Parcel 0882, having a premises address of 115 S Division Street, Salisbury, MD, being more particularly described in a Deed to Devreco, LLC., dated October 10, 2013 and recorded among the Land Records of Wicomico County, Maryland, in Liber M.S.B. No. 3638, Folio 433, (the said real property described as aforesaid is hereinafter referred to as the “**Property**”), and all improvements located thereon; and,

**WHEREAS**, the Property’s 12,000+/- SF (“**Leased Premises**”) intended use as office space for City of Salisbury (“**City**”) employees, housing the Downtown Visitor Center, and hosting public events offers the most advantageous facility within Downtown Salisbury; and,

**WHEREAS**, a Lease Agreement (“**Agreement**”) (draft attached hereto and incorporated herein as **Exhibit A**) authorizing the leasing of 115 S. Division Street to the City is required to define the mutual covenants and agreements set forth therein; and

**WHEREAS**, pursuant to § 16-3 *et seq.* of the Salisbury City Charter (the “**Charter**”), competitive bidding procedures can be waived by the City Council; and,

**WHEREAS**, by this Resolution, the Council **(i)** hereby grants approval to waive the competitive bidding procedures; and **(ii)** hereby authorizes the Mayor’s execution of the Agreement on behalf of the City; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND**, as follows:

**Section 1.** The Mayor is hereby authorized to execute, on behalf of the City of Salisbury, that certain Lease Agreement, by and between the City of Salisbury and Devreco, LLC, attached hereto and incorporated herein as **Exhibit A**.

**Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Resolution shall be deemed independent of all other provisions herein.

**Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Resolution shall be adjudged invalid,

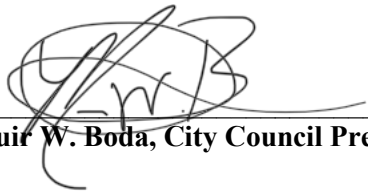
unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Resolution shall remain and shall be deemed valid and enforceable.

**Section 4.** The recitals set forth hereinabove and **Exhibit A** attached hereto, and all exhibits attached thereto and incorporated therein, are incorporated into this section of the Resolution as if such recitals and **Exhibit A** were specifically set forth at length in this Section 4.

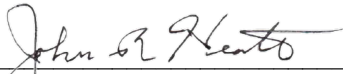
**THE ABOVE RESOLUTION** was introduced and read and passed at the regular meeting of the Council of the City of Salisbury held on this 6th day of February 2023 and is to become effective immediately upon adoption.

**ATTEST:**

  
\_\_\_\_\_  
**Kimberly R. Nichols, City Clerk**

  
\_\_\_\_\_  
**Muir W. Boda, City Council President**

Approved by me, this 23rd day of February, 2023.

  
\_\_\_\_\_  
**John R. Heath, Acting Mayor**

**Commercial Lease Agreement for 115 South Division Street, Salisbury, Maryland 21801**

Devreco, LLC (Landlord) and The City of Salisbury, Maryland (Tenant)

This **Commercial Lease Agreement** ("**Lease**") is made and effective this 30 day of February 2023, by and between **Devreco, LLC**, a Maryland limited liability company ("**Landlord**"), and **The City of Salisbury**, a Maryland municipal corporation ("**Tenant**") (Landlord and Tenant are hereinafter referred to collectively as the "**Parties**"). **WITNESSETH:**

**WHEREAS**, Landlord hereby leases unto Tenant, and Tenant hereby leases from Landlord, for the term, and upon the mutual covenants, agreements and the rentals set forth herein, the Leased Premises as defined herein below.

**NOW, THEREFORE**, in consideration of the mutual promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

**1. Lease of Premises.**

Landlord is the owner of all that certain land and improvements located thereon having a premises address of 115 South Division Street, Salisbury, Maryland 21801 and consisting of 12,000+/- square feet of rentable floor space as more particularly described and shown on a drawing identified as **Exhibit-A** attached hereto and incorporated herein. (The said land having a premises address of 115 South Division Street, Salisbury, Maryland 21801 and all improvements located thereon, owned by Landlord and leased to Tenant hereunder, is hereinafter referred to as the "**Leased Premises**").

**2. Term.**

Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord, for an initial term commencing on April 1, 2023 (the "**Commencement Date**") and continuing through and until 11:59 p.m. September 30, 2038 (the "**Initial Term**") (each twelve (12) month period within the Initial Term or any extension thereof is hereinafter referred as to a "**Lease Year**"; and, furthermore, for purposes of this Lease, the term "Lease Year" shall also be deemed to include the six (6) month period between April 1, 2038 and September 30, 2038).

Notwithstanding any term to the contrary set forth herein, at any time during the Term of this Lease, or any extension thereof, in the event funds sufficient for Tenant's payment of the Minimum Rent and any other charges due hereunder are not legally available to Tenant, this Lease may be terminated by Tenant, provided Tenant delivers written notice to Landlord, certifying that funds sufficient to pay Tenant's obligations hereunder are not legally available to Tenant in any way whatsoever, within Thirty (30) days following the final adoption of the budget, for the then-upcoming fiscal year, by the City Council for the City of Salisbury, MD.

**3. Minimum Rent.**

- (a) The Parties hereby expressly acknowledge and agree that, beginning on October 1, 2023 (the "**Rent Commencement Date**") and continuing for remainder of the Initial Term, Tenant shall pay as annual minimum rent (the "**Minimum Rent**") to Landlord, in equal monthly installments, without deduction, set-off, recoupment, counterclaim or demand, except as otherwise provided herein, in accordance with the following schedule:

<b>Rent Commencement Date through</b>	<b>\$96,000.00 per year</b>	<b>\$8,000.00 per month</b>
<b>September 30, 2028 – \$8.00/sq. ft.</b>		

<b>October 1, 2028 through September 30, 2033 – \$10.00/sq. ft.</b>	<b>\$120,000.00 per year</b>	<b>\$10,000.00 per month</b>
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<b>October 1, 2033 through September 30, 2038 – \$12.00/sq. ft.</b>	<b>\$144,000.00 per year</b>	<b>\$12,000.00 per month</b>
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**Commercial Lease Agreement for 115 South Division Street, Salisbury, Maryland 21801**

Devreco, LLC (Landlord) and The City of Salisbury, Maryland (Tenant)

This **Commercial Lease Agreement** ("**Lease**") is made and effective this \_\_\_\_ day of January 2023, by and between **Devreco, LLC**, a Maryland limited liability company ("**Landlord**"), and **The City of Salisbury**, a Maryland municipal corporation ("**Tenant**") (Landlord and Tenant are hereinafter referred to collectively as the "**Parties**"). **WITNESSETH:**

**WHEREAS**, Landlord hereby leases unto Tenant, and Tenant hereby leases from Landlord, for the term, and upon the mutual covenants, agreements and the rentals set forth herein, the Leased Premises as defined herein below.

**NOW, THEREFORE**, in consideration of the mutual promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

**1. Lease of Premises.**

Landlord is the owner of all that certain land and improvements located thereon having a premises address of 115 South Division Street, Salisbury, Maryland 21801 and consisting of 12,000+/- square feet of rentable floor space as more particularly described and shown on a drawing identified as **Exhibit-A** attached hereto and incorporated herein. (The said land having a premises address of 115 South Division Street, Salisbury, Maryland 21801 and all improvements located thereon, owned by Landlord and leased to Tenant hereunder, is hereinafter referred to as the "**Leased Premises**").

**2. Term.**

Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord, for an initial term commencing on April 1, 2023 (the "**Commencement Date**") and continuing through and until 11:59 p.m. September 30, 2038 (the "**Initial Term**") (each twelve (12) month period within the Initial Term or any extension thereof is hereinafter referred as to a "**Lease Year**"; and, furthermore, for purposes of this Lease, the term "Lease Year" shall also be deemed to include the six (6) month period between April 1, 2038 and September 30, 2038).

Notwithstanding any term to the contrary set forth herein, at any time during the Term of this Lease, or any extension thereof, in the event funds sufficient for Tenant's payment of the Minimum Rent and any other charges due hereunder are not legally available to Tenant, this Lease may be terminated by Tenant, provided Tenant delivers written notice to Landlord, certifying that funds sufficient to pay Tenant's obligations hereunder are not legally available to Tenant in any way whatsoever, within Thirty (30) days following the final adoption of the budget, for the then-upcoming fiscal year, by the City Council for the City of Salisbury, MD.

**3. Minimum Rent.**

- (a) The Parties hereby expressly acknowledge and agree that, beginning on October 1, 2023 (the "**Rent Commencement Date**") and continuing for remainder of the Initial Term, Tenant shall pay as annual minimum rent (the "**Minimum Rent**") to Landlord, in equal monthly installments, without deduction, set-off, recoupment, counterclaim or demand, except as otherwise provided herein, in accordance with the following schedule:

<b>Rent Commencement Date through</b>	<b>\$96,000.00 per year</b>	<b>\$8,000.00 per month</b>
<b>September 30, 2028 – \$8.00/sq. ft.</b>		

<b>October 1, 2028 through September 30,</b>	<b>\$120,000.00 per year</b>	<b>\$10,000.00 per month</b>
<b>2033 – \$10.00/sq. ft.</b>		

<b>October 1, 2033 through September 30,</b>	<b>\$144,000.00 per year</b>	<b>\$12,000.00 per month</b>
<b>2038 – \$12.00/sq. ft.</b>		



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Devreco, LLC (Landlord) and The City of Salisbury, Maryland (Tenant)

- (b) The Parties expressly acknowledge and agree all payments of the Minimum Rent due Landlord under the rent schedule set forth in Section 4(a) shall be: (i) paid by Tenant, in advance, on the first (1st) day of each calendar month during the Term (as defined herein); and, (ii) mailed or hand-delivered by Tenant to Landlord at the address of 150 West Market Street, Suite 101, Salisbury, Maryland 21801 or at such other address as Landlord may direct, in writing to Tenant, from time to time during the Term. Any delay or failure of Landlord in computing or billing for any of the Rents (as defined herein) due under this Lease shall not constitute a waiver of or in any way impair the continuing obligation of Tenant to pay such installment of Rents. The payment of Minimum Rent for any partial calendar month during the Term shall be prorated on a daily basis.
- (c) **Intentionally Omitted.**
- (d) Notwithstanding any term to the contrary set forth herein, the Parties expressly acknowledge and agree that during the period between the Commencement Date and the Rent Commencement Date, Tenant shall be responsible for payment to Landlord for any and all amount(s) of Utilities, Real Property Taxes and/or Insurance premiums due from Tenant hereunder.
- (e) **Renewal Option.** Tenant shall have the option to renew this Lease (the "**Renewal Option**") for one (1) renewal term of Five (5) years, commencing on October 1, 2038 and continuing through and until September 30, 2043 (the "**Renewal Term**"), upon the same terms and conditions contained in this Lease except for the amount of Minimum Rent due from Tenant which shall be \$168,000.00 per year, which shall be paid by Tenant to Landlord in equal monthly installments of \$14,000.00 and in the manner set forth in Section 4(b). Tenant shall exercise the Renewal Option provided herein, if at all, by giving Landlord written notice thereof at least sixty (60) days prior to the expiration of the Initial Term. (For purposes of this Lease, the word "**Term**" shall be deemed to include, where appropriate, the Initial Term and the Renewal Term.).

**4. Intentionally Omitted.**

**5. Use of Leased Premises.**

- (a) Tenant shall use the Leased Premises for offices, administrative functions, warehousing and any other associated and/or ancillary functions related thereto, and any other lawful use (collectively, the "**Permitted Use**"). No use of the Leased Premises shall be made or permitted to be made that shall result in: (i) waste of the Leased Premises or any part thereof; and/or, (ii) a public or private nuisance that may disturb the quiet enjoyment of Landlord or other neighboring tenants of the building. Any changes to the Permitted Use shall require Landlord's prior written consent (not to be unreasonably withheld, conditioned or delayed) Landlord represents and warrants that Tenant shall be permitted to access and utilize the Leased Premises on a 24/7 basis.
- (b) Subject to the terms and conditions contained in Section 29, at all times during the Term, Tenant, at its expense, shall comply with all laws, ordinances, and regulations of federal, state, and local authorities, including but not limited to the Americans with Disabilities Amendments Act of 2008, relating to or arising from Tenant's use of the Leased Premises and with the recorded covenants, conditions, and restrictions affecting the Leased Premises (if any), regardless of when any such covenant(s), condition(s) and/or restriction (if any) became effective, including, without limitation, any and all applicable federal, state, and local laws, ordinances, or regulations pertaining to air and water quality, hazardous material which is restricted or prohibited under any applicable federal or state law or regulation, waste disposal, air emissions, and other environmental matters, all zoning and other land use matters, utility availability, and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to Tenant's use or occupation of the Leased Premises.



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**6. Sublease and Assignment.**

Tenant shall not sublet the Leased Premises or assign this Lease or any of its rights hereto without the prior written consent of Landlord, which such consent shall not be unreasonably withheld by Landlord. Landlord expressly reserves the right to assign this Lease to third parties and such third parties shall be bound by the terms hereof.

**7. Repairs.**

- (a) At all times during the Term, Tenant, at Tenant's expense, shall make all necessary repairs to the Leased Premises. Repairs shall include such items as routine repairs of floors, walls, ceilings, and other parts of the Leased Premises damaged or worn through the occupancy and use of the Leased Premises by Tenant hereunder. Landlord, at Landlord's expense, shall make all necessary repairs to the building located on the Leased Premise, which shall include but not be limited to the roof of the building, the exterior of the building, including masonry/stonework/siding, windows and doors, the foundation of the building, the parking lot, and the main plumbing and main building electrical systems for the Leased Premises. Tenant shall make at Tenant's expense all repairs to the plumbing and electrical systems located within the Leased Premises.
- (b) Tenant, at Tenant's expense, shall be responsible for performing routine maintenance on the HVAC system(s) installed at the Leased Premises, and Tenant shall use only licensed, insured and reputable HVAC contractor(s) for such routine maintenance and repairs. Provided Tenant complies with its maintenance obligations for the HVAC system(s) installed Leased Premises as aforesaid, Landlord, at Landlord's expense, shall be responsible for all non-routine maintenance and/or replacements of the HVAC system(s) installed at the Leased Premises, unless such non-routine maintenance and/or replacements of the HVAC system(s) arises from Tenant's negligence.

**8. Alterations and Improvements.**

- (a) Except for any alteration(s) and/or improvement(s) to the Leased Premises made in connection with Tenant's Work as authorized by the provisions of Section 34, Tenant shall not alter the Leased Premises in any way, including, but not limited to: removing or altering any built-in desks or cabinetry, painting any exterior or interior space(s) or changing the carpet or modifying any structural, without the prior written consent of Landlord, which such consent shall not be unreasonably withheld; notwithstanding the foregoing, Tenant shall be permitted to make non-structural alterations to the Leased Premises provided such alterations cost less than Ten Thousand Dollars and 00/100 (\$10,000.00) in the aggregate and are properly permitted by the government authority having jurisdiction over the permit(s) for such work.
- (b) Tenant shall have the right to place and install its personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the Leased Premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by Tenant at the commencement of the Term or placed or installed in or upon the Leased Premises by Tenant thereafter, shall remain Tenant's property free and clear of any claim by Landlord. Tenant shall have the right to remove the same at any time during the Term, provided that any damage to the Leased Premises caused by such removal shall be repaired by Tenant forthwith, and no later than Thirty (30) days from the date such damage(s) occurred, at Tenant's sole cost and expense.



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Devreco, LLC (Landlord) and The City of Salisbury, Maryland (Tenant)

**9. Property Taxes.**

- (a) **Real Property Taxes.** Beginning on the Commencement Date and continuing through and until the expiration of the Term or the earlier termination of this Lease, Tenant shall be responsible for the payment of any and all state, county and/or local real estate taxes, including assessments, ad valorem charges, special benefit assessments and/or any other government charge(s) (collectively "**Real Property Taxes**"), which are levied or imposed against the Leased Premises at any time during the Term.
- (b) **Personal Property Taxes.** At all times during the Term of this Lease, Tenant shall be responsible, at its sole cost and expense, for the payment of any and all personal property taxes imposed against Tenant's personal property, if any, located or otherwise maintained at, upon or within the Leased Premises.

**10. Insurance.**

- (a) If the Leased Premises, and/or any other part of the building located thereon, is damaged by fire or other casualty resulting from any act or negligence of Tenant or any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and tenant shall be responsible for the costs of repair not covered by insurance.
- (b) Landlord shall maintain at sole expense fire and extended coverage insurance on the Leased Premises, including the building located thereon. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property and contents, including removable trade fixtures, located in the Leased Premises.
- (c) Tenant shall, at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each at the Leased Premises with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved in advance by Landlord, such insurance to afford minimum protection of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate, with additional umbrella coverage of less than \$2,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Tenant shall provide Landlord with current Certificates of Insurance evidencing Tenant's compliance with this Paragraph. Tenant shall obtain the agreement of Tenant's insurers to notify Landlord that a policy is due to expire at least (10) days prior to such expiration. Landlord shall not be required to maintain insurance against thefts within the Leased Premises or the building located thereon. Prior to the Commencement Date and upon Landlord's request during any Lease Year Tenant shall cause to be issued to Landlord Certificates of Insurance which evidence a current insurance policy or policies maintained by Tenant in accordance with its obligations under this Section 10(c). Landlord shall not be required to maintain insurance against thefts within the Leased Premises.

**11. Utilities.**

At all times during the Term of this Lease, Tenant shall be responsible for payment, as and when due, without markup, of any and all charges and/or fees billed or are otherwise assessed for the use and/or availability of water, sewer, gas and/or electric utilities serving the Leased Premises (collectively, the "**Utilities**"). Tenant shall be responsible, at its sole cost and expense, for procuring any utility service(s), other than the Utilities (as defined herein), for the Leased Premises and/or Tenant's use thereof, including, but not limited to, telephone, cable, internet, or trash removal service. (For purposes of this Lease the Minimum Rent, Real Property Taxes, Insurance and Utilities, and any and all other charges and/or fees to be paid by Tenant hereunder are hereinafter referred to collectively as the "**Rents**".)



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**12. Deposit.**

The Parties expressly acknowledge and agree that no security deposit is due from, or otherwise owed by, Tenant hereunder.

**13. Signs.**

Tenant shall have the right to place on the Leased Premises, at locations selected by Tenant, any signs which are permitted by applicable zoning ordinances and private restrictions. Landlord may refuse consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenant. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Leased Premises resulting from the installation or removal of signs installed by Tenant.

**14. Entry.**

Landlord shall have the right to enter upon the Leased Premises at reasonable hours to inspect the same, provided Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises. Landlord will provide Twenty-Four (24) hours advanced notice of entry, except in the case of emergencies, and shall make reasonable efforts to have Tenant present during entry. The Tenant shall not change the locks or otherwise restrict access to the premises by the Landlord at any time. If the locks are rekeyed, the Tenant agrees, within Twenty-Four (24) hours thereof, to provide a copy of the key to the Landlord for emergency access.

**15. Parking.**

Parking is permitted on any area of the Leased Premises that is deemed suitable by Tenant.

**16. Grounds & Building Maintenance.**

At all times during the Term, Tenant shall be responsible for payment of all costs for building and grounds maintenance at the Leased Premises, including, but not limited to: grass cutting, landscaping, snow removal, salting, parking lot repair, pest control, elevator inspections and permits (if any), fire alarm and sprinkler inspections and monitoring services, cleaning the exterior and interior of the building located on the Leased Premises; and, replacement of any and all light bulbs and ballasts installed at the Lease Premises.

**17. Damage and Destruction.**

- (a) If the Leased Premises or any part thereof or any appurtenance thereto is so damaged by fire, casualty or material structural defects that the same cannot be used for Tenant's Permitted Use of the Leased Premises, provided any such damage(s) does not arise from or relate to any negligent act(s) or omission(s) of Tenant, or any of its agents, representatives, officials, employees, customers, invitees, business invitees, licensees, contractors and/or subcontractors, then Tenant shall have the right within thirty (30) days following the occurrence of such damage to elect to terminate this Lease as of the date such damage occurred by delivering written notice of such election, specifying the grounds therefor, to Landlord.
- (b) In the event of minor damage to any part of the Leased Premises by fire, casualty or material defects, provided any such damage(s) does not arise from or relate to any negligent act(s) or omission(s) of Tenant, or any of its agents, representatives, officials, employees, customers, invitees, business invitees, licensees, contractors and/or subcontractors, and such damage does not render the Leased Premises unusable for Tenant's Permitted Use of the Leased Premises, Landlord, at its cost, shall promptly repair such damage to the Leased Premises. In making the



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repairs required under this Section 17(b), Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord. Tenant shall be relieved from paying Minimum Rent and other charges during any portion of the Term that the Leased Premises are inoperable or are otherwise unfit for Tenant's occupancy and/or Tenant's Permitted use of the Leased Premises as a result of damages to the Leased Premises by fire, casualty or material structural defect, provided said damages did not arise from or relate to any negligent act(s) or omission(s) of Tenant, or any of its agents, representatives, officials, employees, customers, invitees, business invitees, licensees, contractors and/or subcontractors; and, in such a case, the amount(s) of any Rents paid, in advance, by Tenant shall be credited on the next ensuing payment of Minimum Rent if any, but, if no further payments of Minimum Rent are to be made by Tenant hereunder, then the amount(s) of any such advance payment(s) shall be refunded to Tenant.

**18. Tenant Default.** The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- (a) The failure by Tenant to make any payment of Rents or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of Thirty (30) days after written notice thereof by Landlord to Tenant.
- (b) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, other than as set forth in Section 18(a) hereof, where such failure shall continue for a period of Thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than Thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said Thirty (30) day period and thereafter diligently prosecutes the same to completion.
- (c) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or, the filing by or against Tenant of a petition to have Tenant adjudged bankrupt, or a petition of reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within Sixty (60) days); or the appointment of a trustee or a receiver to take possession of all or substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within Thirty (30) days; or the attachment, execution or other judicial seizure of all or substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease, where such seizure is not discharged within Thirty (30) days, with the exception of files, computers, phones, servers and any and all other items that may proprietary and confidential information and governmental documents

**19. Remedies for Tenant Default.**

- (a) In the event of a default or breach by Tenant of this Lease as set forth in Section 18, Landlord may at any time thereafter, in its sole discretion, with or without notice or demand and without limiting Landlord in the exercise of a right or remedy which Landlord may have, at law or in equity, by reason of such default or breach by Tenant:
  - (i) Terminate Tenant's right to possession of the Leased Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Leased Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's possession of the Leased Premises,,, the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid Rents and any other charges called for herein for the



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balance of the Term after the time of such award exceeds the amount of such loss for the same period that Tenant proves could be reasonably avoided.; or

- (ii) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Leased Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease including the right to recover the Rents and any other charges as may become due hereunder; and/or
- (iii) Pursue any other remedy now or hereafter available to Landlord under the laws of the State of Maryland.

- (b) In the event of a Tenant default hereunder, Landlord shall use reasonable efforts to mitigate damages.

**20. Landlord Default.**

Landlord shall not be in default of this Lease in any way whatsoever, unless Landlord fails to perform an obligation required of Landlord hereunder within a reasonable time, but in no event later than Thirty (30) days after written notice by Tenant to Landlord and to the holder of any mortgage or deed of trust encumbering the Leased Premises whose name and address shall have theretofore been furnished to Tenant in writing, which said notice shall specify the nature of the obligation Landlord has failed to performed as required under this Lease; provided, however, if the nature of Landlord's obligation is such that more than Thirty (30) days are required for performance by Landlord, Landlord shall not be in default if Landlord commences performance thereof within such Thirty (30) day period and thereafter diligently prosecutes the same to completion. In the event of a default or breach by Landlord of this Lease as set forth in this Section 20, Tenant shall be entitled, at any time before the Landlord's default is cured to: (a) take such action as may be required to have been taken by Landlord under this Lease, in which event Landlord agrees to pay to Tenant on demand all costs and expenses incurred by Tenant in connection therewith, failing which Tenant shall be entitled to offset such sums against the Minimum Rent next becoming due under this Lease; (b) abate the payment of Minimum Rent and other amounts due under this Lease during the continuance of any such default by Landlord; or, (c) to terminate this Lease upon written notice to Landlord if the default causes a substantial interference with Tenant's use and enjoyment of the Leased Premises, in which event Tenant shall have no further obligations hereunder Tenant shall have the right, but not the obligation, to make mortgage payments and other payments owed by Landlord to third parties if Landlord is in default with reference to the same and the above notice has been delivered to Landlord by Tenant.

**21. Quiet Possession.**

Subject, in all respects, to Tenant (i) paying Landlord all Rents as and when due in accordance with the terms of this Lease, and (ii) observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Leased Premises for the Term of this Lease in accordance with the provisions hereof.

**22. Condemnation.**

If the Leased Premises or any part thereof shall be taken by public or quasi-public authority under any power of eminent domain or condemnation, this Lease shall terminate no later than the last day upon which Tenant can use the Leased Premises as permitted under Section 5 hereof, and Tenant shall have no claim or interest in or to any award of damages arising from or relating to such taking.



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**23. Subordination.**

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require. Tenant's failure to comply with the terms set forth herein shall constitute a default under Paragraph 18(b) above.

**24. Notice.**

All notices, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been given: **(a)** when delivered by hand (with written confirmation of receipt); **(b)** when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); **(c)** on the date sent by email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or, **(d)** on the date signed by the designated recipient as to any notice sent by certified or registered mail, return receipt requested, postage prepaid, if sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with the provisions of this Section 24):

**If to Landlord:**

Devreco, LLC  
c/o Bradley J. Gillis  
150 W. Market Street, Suite 101  
Salisbury, Maryland 21801  
Email: [brad@ggibuilds.com](mailto:brad@ggibuilds.com)

**If to Tenant:**

City of Salisbury  
c/o Andy Kitzrow, Deputy City Administrator  
125 N. Division Street, Mayor's Office  
Salisbury, Maryland 21801  
Email: [akitrow@salisbury.md](mailto:akitrow@salisbury.md)

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this Section 24 by giving written notice thereof to the other party. Each such notice shall be deemed delivered upon receipt or refusal.



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**25. Brokers.**

Landlord and Tenant each represent and warrant that they have neither consulted nor negotiated with any broker or finder regarding the Premises, except Christian Phillips of NAI Coastal LLC ("Landlord's Broker") representing Landlord. Landlord shall pay Landlord's Broker pursuant to a separate written agreement, provided that neither the foregoing nor anything else in this Lease is intended to grant such party any rights under this Lease or make them third party beneficiaries of this Lease. Tenant shall indemnify, defend, and hold Landlord harmless from and against any claims for commissions from any real estate broker other than Landlord's Broker with whom Landlord has dealt in connection with this Lease. Landlord expressly acknowledges and agrees to indemnify, defend, and hold Tenant harmless from and against payment of any leasing commission due Landlord's Broker in connection with this Lease and any claims for commissions from any real estate broker other than Landlord's Broker with whom Landlord has dealt in connection with this Lease. Tenant expressly acknowledges and agrees to indemnify, defend, and hold Landlord harmless from and against payment of any leasing commission, and/or any claim or complaint for any leasing commission, due any real estate broker with whom Tenant has dealt with in connection with Tenant's negotiation and execution of this Lease. The terms of this Section 25 shall survive the expiration of the Term or earlier termination of this Lease.

**26. Waiver.**

The waiver by Landlord or Tenant of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Minimum Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding default by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Minimum Rent so accepted, regardless of Landlord's knowledge of such preceding default at the time of the acceptance of such Minimum Rent. This Lease may be amended or modified in whole or in part only by an agreement in writing executed by each of the Parties.

**27. Memorandum of Lease.**

Tenant shall not record this Lease or a short-form memorandum thereof without the prior written consent of Landlord. Upon Landlord's request, Tenant shall execute a short-form memorandum of this Lease for recordation purposes, in which case the costs of said recording shall be the sole responsibility of Landlord.

**28. Consent.**

Except for such matters in which the consent of Landlord is subject to Landlord's sole discretion as provided herein, Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

**29. Compliance with Law.**

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Leased Premises. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises. Under no circumstances shall Tenant have responsibility for, or be required to bear the expense of, any modification to the Leased Premises or any improvement(s) located thereon required by any laws, ordinances, orders, rules, and regulations of state, federal, municipal, or other agencies or bodies having jurisdiction over the use, condition or occupancy of the Leased Premises or other compliance expenses to the extent such responsibility or requirement (i) existed on the Commencement Date or (ii) applies to similar premises in general and not particularly to the Tenant's business at the Leased Premises.



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**30. Mutual Indemnification and Waiver of Claim.**

- (a) Subject to the terms and conditions of this Section 30(a), Tenant shall indemnify and hold harmless Landlord from and against any and all third party claims arising from Tenant's use of the Leased Premises or from the conduct of its business or from any activity, work, or other things done, permitted or suffered by Tenant in or about the Leased Premises, and shall further indemnify and hold harmless Landlord against and from any and all third party claims arising from any act or negligence of Tenant, or any of its agents, employees, licensees, contractors and/or subcontractors (collectively, the "**Landlord Parties**"), and from all costs, reasonable attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon, and, in the event any action or proceeding is brought against Landlord by reason of such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's sole cost and expense by counsel reasonably satisfactory to Landlord. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon, or about the Leased Premises, from any cause other than Landlord's sole negligence or willful act or the negligence or willful act of Landlord or the Landlord Parties; and Tenant hereby waives all claims in respect thereof against Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents on or within the Leased Premises. Notwithstanding any term to the contrary set forth herein, Landlord or the Landlord Parties shall not be liable for any loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Leased Premises or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface from any other place resulting from dampness or any other cause whatsoever, unless caused by or due to the sole negligence of Landlord or the Landlord Parties.
- (b) Subject to the terms and conditions of this Section 30(b), Landlord shall indemnify and hold harmless Tenant against and from any and all third party claims arising from the conduct of Landlord's business or from any activity, work, or other things done, permitted or suffered by Landlord in or about the Leased Premises, and shall further indemnify and hold harmless Tenant against and from any and all third party claims arising from any act or negligence of Landlord, or any of its agents, employees, licensees, contractors and/or subcontractors (collectively, the "**Tenant Parties**"), and from all costs, reasonable attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon, and, in the event any action or proceeding is brought against Tenant by reason of such claim, Landlord, upon notice from Tenant, shall defend the same at Landlord's sole cost and expense by counsel reasonably satisfactory to Tenant.
- (c) Landlord and Tenant each expressly, knowingly, and voluntarily waive and release any claims that they may have against the other or the Landlord Parties or Tenant Parties (as applicable) as a result of the acts or omissions of the other party or the Landlord's Parties or Tenant's Parties (as applicable) (specifically including the negligence of either party or the Landlord's Parties or Tenant's Parties (as applicable)), which claims are covered by the policies of insurance required to be carried by either party under this Lease, or other insurance that either party may carry from time to time. Landlord and Tenant shall each, on or before the Commencement Date, obtain and keep in full force and effect at all times thereafter a waiver of subrogation from its insurer for policies of insurance required to be carried by either party under this Lease.

**31. Mechanics' Liens.**

Tenant shall not do or suffer to be done any act, matter or thing whereby Landlord's or Tenant's interest in the Leased Premises or any part thereof, may be encumbered by any mechanics' lien. Tenant shall discharge or stay the enforcement by bond or otherwise, within thirty (30) days after the date of filing, any mechanics' liens filed against Tenant's interest in the Leased Premises, or any part thereof, purporting to be for labor or material furnished or to be furnished to Tenant. Landlord may, at its option, discharge any such



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mechanics' lien not discharged or stayed by Tenant within such thirty (30) day period, and Tenant, upon demand, shall reimburse Landlord for any such reasonable, documented, out-of-pocket expenses incurred by Landlord. Any monies paid by Landlord, on behalf of Tenant, under this Section 31 shall be deemed Rent due hereunder, collectible by Landlord in accordance with the terms of Section 4 and the late charge specified in Section 4(c) shall accrue from the date such payment is made by Landlord (if at all). Landlord shall not be liable for any labor or materials furnished or to be furnished to Tenant upon credit, and no mechanics' or other lien for labor or materials shall attach to or affect the reversionary or other estate or interest of Landlord in and to the Leased Premises and/or the building located thereon.

**32. Waiver of Trial by Jury.**

**Landlord and Tenant each hereby expressly waive trial by jury in any action or proceeding or counterclaim brought by either party hereto against the other party on any and every matter, directly or indirectly, arising out of or relating to this Lease.**

**33. Miscellaneous.**

This Lease, including all terms and conditions contained herein, shall be binding upon and inure to the benefit of the Parties hereto, their respective administrators, successors, and permitted assigns. The rights and obligations of the Parties under this Lease shall in all respects be governed by the laws of the State of Maryland without regard to its conflict of laws principles, and venue in any legal action shall exist exclusively in the District or Circuit Court for Wicomico County, Maryland. Tenant hereby agrees to the jurisdiction of either such Wicomico County, Maryland Court and agrees not to assert any objection to the jurisdiction or venue of such Court. The use of a gender herein shall apply to all genders and the use of the singular shall apply to the plural. Section headings are used for convenience of reference only and such section headings shall not be interpreted as a part of this Lease. This Lease contains the final and entire agreement between the Parties hereto and terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Lease may be modified only in a writing that is duly executed by both Parties. Time is of the essence with respect to all matters set forth in this Lease. This Lease may be executed in multiple counterparts, and each counterpart when fully executed and delivered will constitute an original instrument, and all such multiple counterparts will constitute but one and the same instrument. An electronic signature of this Lease and/or an electronic transmission of a signature shall be binding on the party or parties whose signatures appear thereon.

**34. Tenant's Work.**

The Parties expressly acknowledge and agree Tenant, at its sole cost and expense, shall complete the improvements to the Leased Premises in accordance with the plans and specifications attached hereto as **Exhibit B** ("Tenant's Work"). Tenant is responsible for final designs and approvals, construction management, and construction costs associated with Tenant's Work. Tenant shall perform any and all of Tenant's Work in a good and workmanlike manner, in a timely fashion and in compliance with all applicable laws, including, without limitation, all local laws, ordinances, regulations and codes, and all requirements of the building officials administering such laws, ordinances, regulation and codes relating to "architectural barriers" affecting the physically handicapped and to all environmental protection laws.

**35. Tenant's Right of First Refusal.**

- (a) The Parties expressly acknowledge and agree that, if, at any time during the Term of this Lease, Landlord receives a bona fide offer from a third-party to purchase all (and not less than all) of the Leased Premises (any such bona fide offer to purchase the Leased Premises is hereinafter referred to as the "**Bona Fide Offer**"), and Landlord is willing to accept the Bona Fide Offer, Landlord shall first provide written notice to Tenant specifying the terms and conditions of the Bona Fide Offer and Tenant shall have the option, for a period of Forty-Five (45) days from



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Tenant's receipt of such notice (the "**Option Period**"), to purchase the Leased Premises from Landlord subject to the same terms and conditions set forth in the Bona Fide Offer (the "**ROFR**").

- (b) The ROFR granted Tenant under this Section 35 shall be exercised by Tenant, if at all, in a writing signed by Tenant and delivered to Landlord prior to the expiration of the Option Period. In the event Tenant fails to exercise its option to purchase the Property, as provided in this Section 35, prior to the expiration of the Option Period, Landlord may accept the Bona Fide Offer made by the third-party and this Lease shall remain in effect pursuant the terms set forth herein for the remainder of the Initial Term or the remainder of the Renewal Term (as the case may be), provided the material financial terms of the Bona Fide Offer are not subsequently modified to be less beneficial to Landlord. For purposes hereof, and without limitation of the foregoing, a decrease of Five Percent (5%) or more in the proposed purchase price set forth in the Bona Fide Offer shall be deemed material. In the event of a material modification to the terms of the Bona Fide Offer, or if negotiations following the Bona Fide Offer do not result in the execution of a valid and binding contract of the sale for Landlord's sale of the Property to such third-party within Thirty (30) days following the expiration of Option Period, or if such executed agreement is not consummated by Landlord and such third-party for any reason(s) whatsoever (or no reason), the ROFR granted Tenant under Section 35(a) shall be deemed to have been restored and the same procedure set forth in this Section 35 governing the rights of Tenant to exercise the ROFR shall remain in full force and effect.

**IN WITNESS WHEREOF**, Devreco, LLC and the City of Salisbury have each executed this Commercial Lease Agreement as of the day and year indicated below each party's signature.

**WITNESS/ATTEST:**



**"TENANT":**

**City of Salisbury**

By:  (SEAL)  
John R. Heath, Acting Mayor

Date: 2/22/23

**WITNESS/ATTEST:**



**"LANDLORD":**

**Devreco, LLC**

By:  (SEAL)  
Bradley J. Gillis, Authorized Member

Date: 2.22.23



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**Exhibit A**  
**(The "Leased Premises")**

Account Identifier	District - 05 Account Number - 026172									
	Owner Information									
Owner Name	DEVRECO LLC					Use:	COMMERCIAL			
						Principal Residence:	NO			
Mailing Address	150 W MARKET ST STE 101 SALISBURY MD 21801					Deed Reference	/03638/ 00433			
	Location & Structure Information									
Premises Address	115 S DIVISION ST SALISBURY 21801-0000					Legal Description	L- 13,792 SQFT 115 S DIVISION STREET BOUNDARY SURVEY DEVRECO			
Map	Grid	Parcel	Neighborhood	Subdivision	Section	Block	Lot	Assessment Year	Plat No	
0107	0014	0882	20002.23	0000				2023	Plat Ref	0016/ 0423
Town: SALISBURY										
Primary Structure Built	Above Grade Living Area			Finished Basement Area			Property Land Area		County Use	
1920	7,680 SF						13,792 SF			
Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements			
		OFFICE BUILDING	/	C2			2014			

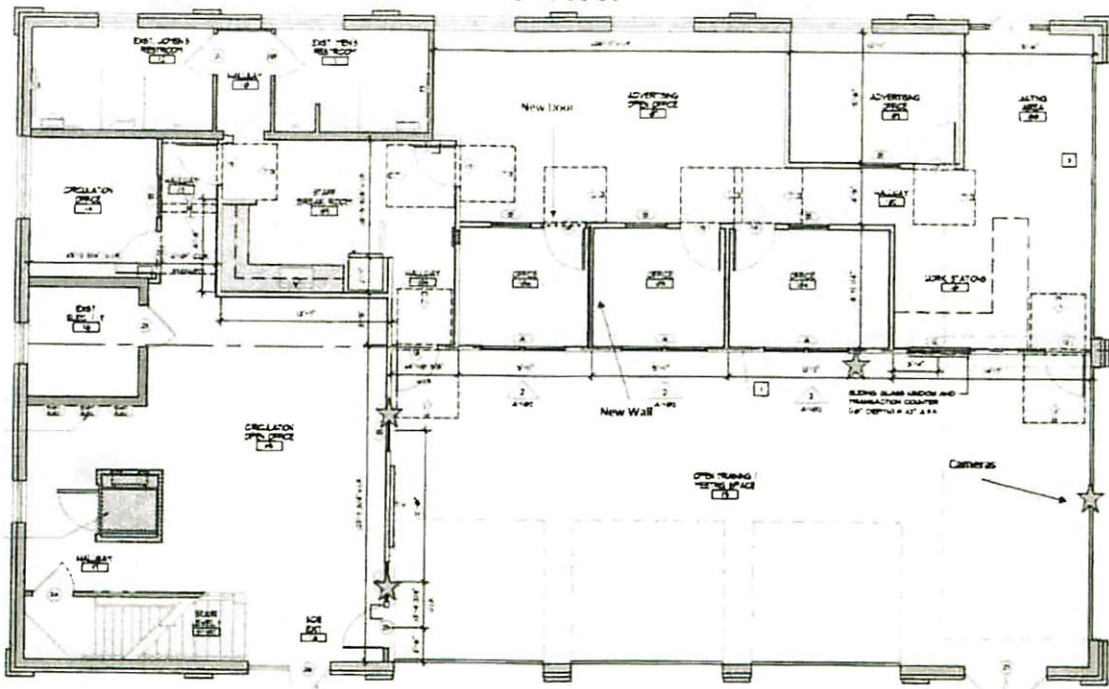


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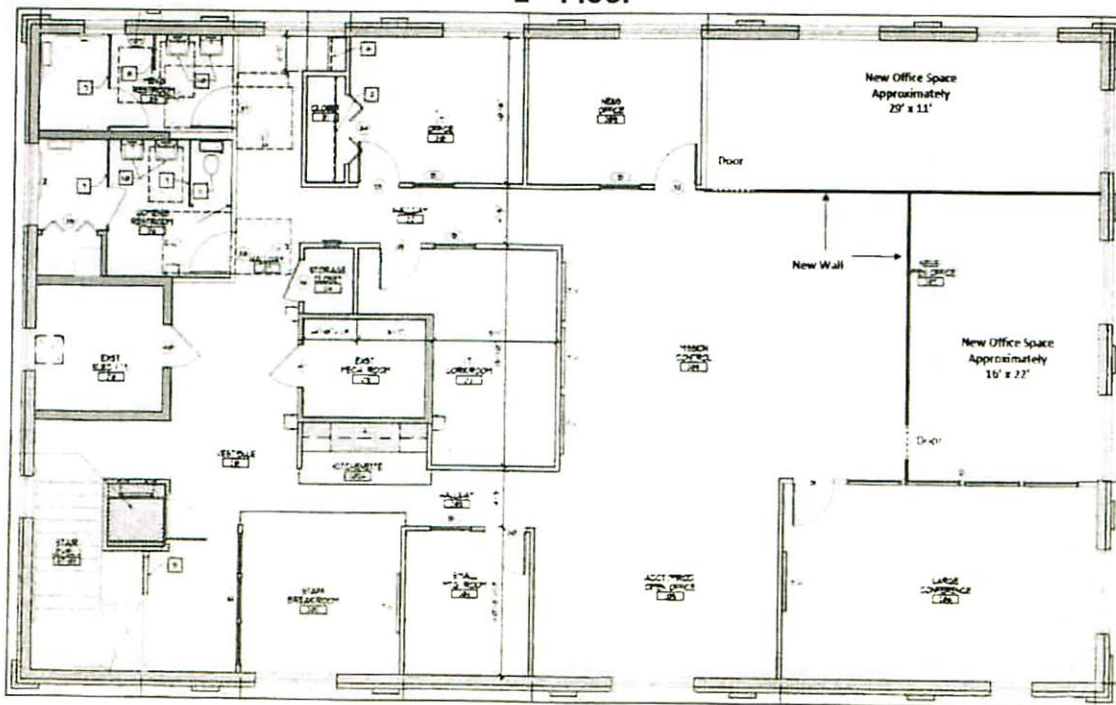
Devreco, LLC (Landlord) and The City of Salisbury, Maryland (Tenant)

**Exhibit B**  
**("TENANT'S WORK")**

**1st Floor**



**2nd Floor**



*[Handwritten signature]* *[Handwritten signature]*



**To:** Mayor and City Council  
**From:** Jennifer Miller  
Director of Procurement  
**Date:** February 6, 2023  
**Subject:** Lease Agreement for 115 S. Division Street, Salisbury

Attached for Council review, please find a draft Lease Agreement between the City of Salisbury and Devreco, LLC, for leasing 115 S. Division Street, along with a Resolution which indicates Council approval of waived bidding requirements and authorizes the Mayor to enter into the lease agreement.

Lease Agreement - 115 S. Division Street

- Intended to house the City of Salisbury Executive Offices and the Downtown Visitor Center, and will be venue to host City Council and City-sponsored meetings and public events
- Term: 15 years
- Rent:
  - \$ 96,000 per year, October 1, 2023 – September 30, 2028
  - \$120,000 per year, October 1, 2028 – September 30, 2033
  - \$144,000 per year, October 1, 2033 – September 30, 2038
- Tenant (City) responsible for:
  - All repairs necessary due to damage or wear and routine HVAC maintenance over the term of the lease
  - Water, sewer, gas and/or electric utilities
  - Telephone, cable, internet and trash removal
  - Grounds and building maintenance

Enclosures

CC: Julia Glanz  
Andy Kitzrow