

**COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND**

2018 Legislative Session

Legislative Day No. 27

**Resolution No. 137-2018**

Introduced by: The President of the Council at the request of the County Executive

A RESOLUTION APPROVING A LEASE OF CERTAIN REAL PROPERTY LOCATED AT 705 N. SALISBURY BOULEVARD OWNED BY E.S. ADKINS, LLC FOR A TERM OF FIVE YEARS FOR THE OPERATION OF A DENTAL CLINIC AND OTHER PROGRAMS.

WHEREAS, Wicomico County Health Department desires to lease certain space located at 705 N. Salisbury Boulevard containing 3,050 square feet, more or less, and a pro rata share of common area space, for the operation of a dental clinic and other programs; and

WHEREAS, the County Executive has determined that the lease of the described property for the use of the Wicomico County Health Department is in the best interest of the County; and

WHEREAS, the County and E.S. Adkins, LLC now wish to enter into a Lease Agreement, a copy of which is attached as Exhibit A, for the Leased Area for a term of five years, beginning on December 1, 2018, at a monthly rent of Four Thousand Six Hundred and Forty-Two Cents (\$4,600.42) for the first year and annual increases thereafter; plus a common area maintenance charge.

NOW, THEREFORE, BE IT RESOLVED, by the County Council of Wicomico County, Maryland that the leased property is needed for the operation of a dental clinic and other programs for the proposed term of the Lease Agreement and that the best interest of the County will be served by entering into the Lease Agreement, in substantially the same form of the Lease Agreement, attached as Exhibit A, with E.S. Adkins for a term of five years; and

BE IT FURTHER RESOLVED, that the County Executive is hereby authorized to execute and deliver the Lease Agreement in the name and on behalf of the County in substantially the same form as the Lease Agreement, attached as Exhibit A.

Done at Salisbury, Maryland, this 4<sup>th</sup> day of December, 2018.

ATTEST:

COUNTY COUNCIL OF  
WICOMICO COUNTY, MARYLAND

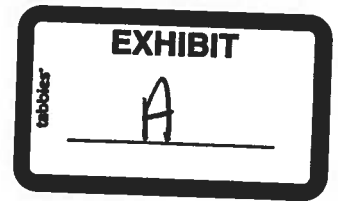
  
\_\_\_\_\_  
Laura Hurley,  
Council Administrator

  
\_\_\_\_\_  
John T. Cannon,  
Council President

CERTIFICATION

This Resolution was Adopted , Adopted with Amendments , Failed , Withdrawn  by the County Council on December 4, 2018.

Certified by   
\_\_\_\_\_  
Laura Hurley, Council Administrator



## LEASE

THIS LEASE, made this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between E. S. Adkins, LLC, a Maryland Limited Liability Company, hereinafter referred to as "Landlord", and Wicomico County, Maryland on behalf of the Wicomico County Health Department hereinafter referred to as "Tenant."

### WITNESSETH

That Landlord does hereby let to Tenant and Tenant does hereby rent from Landlord the premises hereinafter described on the terms and conditions set forth herein.

### ARTICLE 1 GENERAL PROVISIONS

Section 1.01. Term. The term of this Lease shall be from December 1, 2018 to November 30, 2023.

Section 1.02. Demised Premises. The Demised Premises that are the subject of this Lease consist of that certain space currently having an address of 705 North Salisbury Boulevard, Salisbury, Maryland containing approximately Three Thousand Fifty (3,050) rentable square feet of floor area. (The term "Demised Premises" shall hereinafter be used to refer to the land, any improvements thereon, or both, as the context may appear.)

Section 1.03 Common Areas. Tenant, its agents, assigns, customers, designees, employees, guests, invitees, licensees, representatives, servants, successors, tenants, visitors, and others, shall have the right to use all driveways, parking areas, sidewalks, and other common facilities and areas in or about the building and grounds, on a non-exclusive basis, of which the Leased Premises are a part, jointly with other tenants and their respective agents, assigns, customers, designees, employees, guests, invitees, licensees, representatives, servants, successors, tenants, visitors, and others. Landlord shall provide parking spaces in order for Tenant to conduct its business as set forth in this Lease and Landlord shall provide reasonable ingress and egress to the Leased Premises. However, neither Tenant nor its agents, assigns, customers, designees, employees, guests, invitees, licensees, representatives, servants, successors, tenants, visitors, and others, shall use any of the aforementioned common facilities and areas in a manner which obstructs or interferes with a reasonable use thereof by others. Landlord will provide, maintenance, and utilities to all common areas and will continue to provide adequate parking that complies with all local municipal codes.

Section 1.04 Landlord's Work. Landlord shall deliver the space As Is.

Section 1.05 Prorata Share. Tenant leases 3,050 SF in an office building containing 3,050 square feet and its pro rata share of the office building "(Office Prorata Share)" is therefore 100% (3,050 / 3,050). The Demised Premises hereunder are also a part of a complex of five adjacent buildings containing 69,385 square feet. Tenant's pro rata share of the complex "(Complex Prorata)" is 4.04% (3,050 / 69,385). In the event any common area charge cannot be specifically allocated to the office building occupied by the Tenant, Landlord shall have the right to allocate said charge over the entire complex using the

Complex Prorata. Both the Complex and Office Prorata share are subject to change in the event any building is existing building is expanded or demolished or if new buildings are constructed on the complex.

ARTICLE 2  
RENT

Section 2.01. Tenant covenants and agrees net rent shall be as follows:

Monthly Rent

December 1, 2018 – November 30, 2019	\$4,600.42
December 1, 2019 – November 30, 2020	\$4,797.67
December 1, 2020 – November 30, 2021	\$4,880.00
December 1, 2021 – November 30, 2022	\$5,027.42
December 1, 2022 – November 30, 2023	\$5,177.38

Such net monthly rent shall be in addition to, and over and above all other payments to be made by the Tenant as hereinafter provided.

Section 2.02 Security Deposit. NONE

Section 2.03 Renewal Option. NONE

ARTICLE 3 ADDITIONAL  
RENT

Section 3.01 Common Area Maintenance Expenses (CAM). In addition to the Monthly Rent set forth herein, Tenant shall pay to Landlord a fixed charge for its pro rata share of common area maintenance expenses, real estate taxes and insurance, on or before the first day of each month of this term as follows:

Monthly Rent

December 1, 2018 – November 30, 2019	\$635.41
December 1, 2019 – November 30, 2020	\$654.48
December 1, 2020 – November 30, 2021	\$674.11
December 1, 2021 – November 30, 2022	\$694.33
December 1, 2022 – November 30, 2023	\$715.16

Section 3.02 Common Area Maintenance Charges Reconciliation. Within one hundred Twenty (120) days of the end of each calendar year during the term of this Lease (as may be extended), Landlord will provide to Tenant a written report (in reasonable detail) of the actual common area charges applicable to the Tenant's premises leased hereunder. If said charges are less than Tenant's contribution for the calendar year pursuant to Section 3.01, Landlord shall provide a refund to Tenant within thirty (30) days following the issuance of the report. If said charges are greater, there shall be no adjustment. Those items covered by CAM shall be deemed to be routine and shall not include capital costs, depreciation, financing charges and other non-routine operating and maintenance expenses.

#### ARTICLE 4 TENANT'S COVENANTS

A. Tenant shall pay, prior to delinquency, all taxes, assessments, license fees, and other Public charges levied, assessed, or imposed or which become payable during the Original Term or any renewals or extensions thereof, upon any trade fixtures, furnishings, equipment, and all other personal property of Tenant installed or located in the Leased Premises. Whenever possible, Tenant shall cause said trade fixtures, furnishings, equipment, and personal property to be separately assessed. If, however, any or all of said items shall be assessed and taxed with the real property, Tenant shall pay to Landlord such taxes as are attributable to Tenant's trade fixtures, furnishings, equipment, and personal property.

B. The Premises shall be used for administrative offices for Wicomico County, Maryland, its agencies and departments and for no other use. Use shall be in compliance with all state, federal and local laws, codes and ordinances. Landlord confirms that this planned use, as described in this paragraph, is permitted by local zoning code.

#### ARTICLE 5 UTILITIES & SERVICES

A. Tenant shall contract with the local serving utilities and bear the cost of electricity and gas service to the Leased Premises.

B. Landlord agrees to provide snow and ice removal from paved parking areas, sidewalks, and driveways.

C. Tenant to provide and bear the cost of janitorial service to the demised premises.

D. Landlord will provide rubbish removal a minimum of once a week.

E. Landlord will provide window-washing services for the exterior windows twice annually.

F. Landlord shall furnish the Leased Premises with HVAC in the office areas. Landlord shall furnish the leased Premises with HVAC in the office areas having the capacity to maintain a temperature between 68 and 72 F degrees. The cost of repairing and replacing (as needed) shall be the responsibility of Landlord. The cost of regular maintenance and cleaning will be contracted by Landlord and included in operating expenses billed to tenant.

G. Landlord will provide water and sewer to the Leased Premises.

H. Tenant will cover the cost of any normal and regular plumbing and electrical repairs or routine maintenance (such as changing light bulbs or unstopping plumbing fixtures) caused by its use or misuse of the plumbing and electrical fixtures, but Landlord will cover the cost of all structural plumbing and electrical repairs (such as replacement of ballasts or entire lighting fixtures) that may occur, or be caused by structural failure.

In the event Landlord provides any services and such services are interrupted, curtailed or discontinued for a period in excess of three (3) days from Landlord's notification (which may be given by Tenant by either facsimile or telephonically) of such interruption, curtailment or discontinuation and said interruption, curtailment, or discontinuation is at a

point within Landlord's control, Tenant's obligation to pay Rent shall abate commencing upon the fifth (5<sup>th</sup>) day and continuing until such time as the interruption, curtailment, or discontinuation ceases. In the event such interruption, curtailment or discontinuation continues for a period in excess of fifteen (15) days, Tenant shall have the right to terminate this Lease upon prior written notice to Landlord.

#### ARTICLE 6 MAINTENANCE

Section 6.01 Landlord's Maintenance Requirements. Landlord shall maintain and promptly make all necessary repairs and replacements to the structural portions and exterior of the building or buildings of which the Leased Premises are a part, and to the grounds, common areas, parking areas and driveways appurtenant thereto. The obligation of Landlord shall include, without limitation, the maintenance, repair and replacement of the roofs, ceilings, windows, doors, exterior walls, foundations, gutters and downspouts.

If Landlord fails to maintain the Leased Premises as required by the terms of this Lease, Tenant shall have the right to give Landlord written notice specifying the maintenance work which has been neglected and if Landlord fails within five (5) days thereafter to commence and prosecute diligently such neglected work (except in the case of an emergency, in which case Landlord shall commence repairs immediately), Tenant may, if it so elects, perform such work as may be necessary to place the Leased Premises in good and sanitary order, condition, and repair, and the cost of any such work, to the extent the same is work that Landlord is obligated to perform under this Lease, shall be payable by Landlord on demand. If such payment is not made on demand, Tenant may, notwithstanding anything herein to the contrary, deduct the cost and expense of such work from the rental payment (s) next due and owing.

Section 6.02 Landlord's Representations. Landlord represents and warrants to Tenant that, as of the Commencement Date, the Leased Premises, and the building of which it forms a part, are in compliance with all federal, state and local laws, ordinances, rules and regulations applicable thereto, and to the contemplated use thereof, including all fire and building codes and the provisions of the Americans with Disabilities Act of 1990. Landlord covenants and agrees, at its own cost and expense, to promptly take all action necessary to maintain the Leased Premises, and the building of which it forms a part, in such compliance throughout the Original Term and any extensions or renewals thereof.

Section 6.03 Tenant's Maintenance Responsibilities. Tenant shall, at its sole cost and expense, maintain the interior and exterior storage area of the Leased Premises in the same condition in which they were received, reasonable wear and tear, damage, and loss from the elements, loss caused by fire or other casualty, repairs to be made by Landlord, and other occurrences beyond the control of Tenant excepted. Tenant shall maintain the Leased Premises in a clean and sanitary condition, in accordance with all applicable federal, state, county, and city health, safety, and sanitation laws, ordinances, regulations, and rules and as directed by the proper public officials during the Original Term and any Extended Term (s) or any renewals or extensions thereof, except as to those items that are the responsibility of Landlord. Tenant covenants and agrees to pay promptly when due, or to secure a bond in the appropriate amount in respect of, all claims for work and materials furnished in connection with its maintenance of the Leased Premises and shall not permit or suffer any

resulting liens or encumbrances to remain on the Leased Premises and shall indemnify, defend, and hold Landlord harmless against loss there from.

Section 6.04 Mold. Landlord hereby affirms that to the best of its knowledge, the Demised Premises will be delivered free of (i) airborne mold in such an amount [type(s) and concentration] regarded generally as an allergen or irritant to humans and (ii) mold in surface colonies likely to create such an amount of airborne mold in the Demised Premises. Throughout the term of this Lease (and any extensions), Tenant may, at its sole cost and expense, retain the services of an industrial hygienist certified by the American Board of Industrial Hygienists ("the Inspector") to inspect and evaluate any of the suites leased hereunder for the presence of the mold of the kinds described in subparts (i) and (ii), above, either of which shall constitute "Actionable Mold." If any Actionable Mold is found, Tenant shall notify Landlord in writing together with a copy of a report from the Inspector. Promptly upon receipt of the report, Landlord shall obtain such services and perform such work as required to eliminate the Actionable Mold as soon as possible and provide Tenant with a report from an industrial hygienist certified by the American Board of Industrial Hygienists (at Landlord's expense) indicating that the mold levels have been reduced below the amount stated in subpart (i) and that all surface colonies of the kind mentioned in subpart (ii) have been removed.

If Landlord is unable or unwilling to eliminate the Actionable Mold within thirty (30) days of its receipt of the written notice from Tenant, Tenant may terminate this Lease, effective upon giving notice to the Landlord, as to any suite(s) having Actionable Mold, in which event the rent and additional CAM rent charge will be reduced, based on the area of those suite(s) as a proportion of the total area of the initial Demised Premises (12,096 SF), as of the date the Landlord receives the termination notice. Tenant shall have thirty (30) days from that date to vacate the Demised Premises or, in the event of partial termination, the particular suite(s).

## ARTICLE 7 ALTERATIONS, IMPROVEMENTS & FIXTURES

Tenant may, at its sole cost and expense, install such equipment and fixtures in the Leased Premises as it deems necessary or appropriate for the conduct of its business, so long as such installation and maintenance of equipment and fixtures in no way impairs the value of or causes damage to the Leased Premises or the building and grounds of which the Leased Premises are a part. Landlord hereby agrees that any equipment and fixtures owned or leased by Tenant are the personal property of Tenant and may be removed by Tenant on or before the expiration date of this Lease, at Tenant's sole cost and expense. Tenant shall immediately repair and restore, at its sole cost and expense, any impairment or damage resulting from such removal. Tenant shall not install any equipment or fixtures that shall impair the structural soundness of the Leased Premises or the building of which the Leased Premises are a part. Tenant may make alterations and improvements to the Leased Premises at its own expense with the consent of Landlord, which consent shall not be unreasonably withheld.

## ARTICLE 8 INDEMNIFICATION & INSURANCE

**Section 8.01 Indemnification.** Commencing upon the day Tenant first enters the Leased Premises each party will indemnify, defend and hold harmless the other party (its affiliates, officers, directors, employees and agents) from and against any and all claims, actions, loss, damages, liabilities, costs, expenses, and reasonable attorney fees in connection with loss of life, personal injury and/or damage to property arising from or out of (i) the negligent or willful acts or omissions of the indemnifying party or (ii) the failure of the indemnifying party to comply with or perform any of its covenants or obligations under the Lease in any material respect.

**Section 8.02 Tenant's Insurance Requirement.** Tenant covenants and agrees to maintain at Tenant's expense, during the full term of this Lease, public liability insurance in the sum of not less than \$1,000,000.00 for liability resulting from injury and/or death, and not less than \$500,000.00 for liability resulting from damage to property, occurring in or on the Leased Premises during the term hereof. Such policy or policies of insurance shall name Landlord as an additional insured as to claims and liabilities arising out of Tenant's acts or omissions. Evidence of such insurance shall be delivered to Landlord upon request. Tenant also agrees to carry on its own behalf workmen's compensation insurance and employer's liability insurance, if applicable, in amounts sufficient to satisfy the statutory requirements of the state where the Leased Premises are located.

**Section 8.03 Landlord's Insurance Requirement.** During the term of this Lease, Landlord shall maintain the following insurance at its expense:

A. Liability – commercial general liability insurance covering the entire property where the Demised Premises are located issued on an occurrence basis in the minimum limit of \$2 million per occurrence and in aggregate limit, if any, that applies separately to the property, meeting at least the following specifications:

1. Policy form in the current edition of ISO CG 00 01 (or, if superseded, then current industry standard form of equivalent scope); coverage to include products and completed operations, property damage, bodily injury and personal & advertising injury.

2. Endorsed for waiver of transfer of rights of recovery against the Tenant and its officers, officials, employees and volunteers (per ISO CG 24 04 or equivalent).

3. Endorsed or otherwise issued to name the following as an additional insured for claims arising out of incidents which occur either in the common areas or elsewhere that landlord is responsible to maintain, including the parking lot, sidewalks and roof: Tenant and its officers, officials, employees and volunteers, for which such coverage shall be primary and without contribution.

B. Property – on the entire property where the Demised Premises are located covering all perils insurable under a Causes of Loss – Special Form policy (ISO CP 10 30 or equivalent form) for full replacement cost on an agreed value basis that includes the initial tenant improvements and all landlord-owned equipment and personal property used

in connection with the property. This insurance shall include a waiver of subrogation by the insurer as to the Tenant and its officers, officials, employees and volunteers.

C. General Requirements.

1. The insurance required by this Section shall be issued by insurers having a Best's Rating and Financial Size Category of A:VII.

2. Landlord shall furnish to Tenant industry standard certification of the insurance required by this Section and upon Tenant's request, the policy forms, both prior to commencement of the term of this lease and thereafter, no later than 10 days prior to any policy termination in the case of certification of subsequent coverage.

3. Landlord shall promptly furnish to Tenant the details and substance of any material change in the coverage under the then current insurance required by this Section and notices of any actual or threatened lapse or cancellation thereof.

Section 8.04 Waiver of Subrogation. Landlord and Tenant hereby waive any claim, right, and/or cause of action that either may have or acquire against the other, its officers, directors, agents, servants, and employees, for damage to or destruction of its property or the property of others, whether real, personal, or mixed, of any kind or nature, arising from fire and/or other casualty which is or should be covered under the insurance required under this Lease, and shall secure such waivers of subrogation or other endorsements as shall be necessary to ensure that any insurer of such property is bound by such waiver.

ARTICLE 9 ASSIGNMENT AND SUBLETTING

A. Tenant shall have the right, upon prior written notice to Landlord, to assign this Lease or sublet any portion of the Leased Premises to an affiliate or subsidiary of Tenant, provided Tenant shall remain fully liable for all Lease obligations.

B. In addition to "A" above, Tenant shall have the right, with Landlord's prior consent (which consent shall not be unreasonably withheld or delayed), to assign this Lease or sublet any portion of the Leased Premises provided each of the following conditions are met:

- (i) The use of the Leased Premises shall be approved by Landlord;
- (ii) The assignee or subtenant shall assume all obligations of Tenant pursuant to the Lease;
- (iii) Tenant shall remain liable for all payments of Rent hereunder.

ARTICLE 10  
ACCESS TO THE LEASED PREMISES

Section 10.01 Landlord's Access to the Leased Premises: Landlord and its representatives shall have the right, upon twenty-four (24) hours prior notice to Tenant, to enter the Leased Premises at all reasonable times during regular business hours to inspect the same, to make repairs and to maintain the building, to post such reasonable notices as



Landlord may desire to protect its rights, or during the ninety (90) days immediately preceding the expiration date of this Lease, to exhibit the Leased Premises to prospective tenants and to place upon the doors or in the windows of the Leased Premises any usual or ordinary "for rent" or "to lease" signs. Notwithstanding the foregoing, Landlord shall have the right to enter the Leased Premises at any time in response to an emergency situation. An emergency situation is a condition which threatens the Leased Premises with the probability of imminent partial or total destruction as those terms are defined in Article 11 of this Lease.

Section 10.02. Tenant's Access to the Leased Premises. Tenant shall have access to the Leased Premises, with all utilities and services available to it, twenty four (24) hours a day, seven (7) days a week, fifty two (52) weeks a year.

#### ARTICLE 11 DAMAGE AND DESTRUCTION

A. The partial or total destruction of the Leased Premises shall not render this Lease void or voidable nor provide either party with the right to terminate this Lease in whole or in part, except as hereinafter provided.

B. Landlord shall, within (30) days of the occurrence of any partial or total destruction (partial destruction shall be deemed to mean that Tenant is able to conduct most, but less than all, of the business on the Leased Premises which it conducted immediately prior to the occurrence of such partial destruction), provide Tenant with notice as to whether Landlord will be able to repair such damage or destruction within sixty (60) days of the date of said notice, at which time one of the following provisions shall come into effect.

(i.) If Landlord is able to repair such damage or destruction within the time period aforesaid, all terms and conditions of this Lease shall remain in full force and effect except that, in the case of partial destruction, Tenant's rent provided for above shall be equitably abated in proportion to the portion of the Leased Premises which is unfit or unavailable for Tenant's use and occupancy during the period of such repair or reconstruction; or in the case of total destruction, the rent provided for hereunder shall be totally abated during the time required to complete such repairs.

(ii.) If Landlord is not able to repair the damage or destruction within the time period aforesaid, then and in such event, either party hereto may declare this Lease terminated as of the date of the occurrence of the damage or destruction by providing the other party with written notice to that effect within sixty (60) days of the date of occurrence of the total destruction.

(iii.) If the Leased Premises are able to be repaired and Landlord fails to commence to repair the Leased Premises within forty-five (45) days after such damage or destruction and to thereafter diligently pursue the completion of such repairs, or fails to complete such repairs within ninety (90) days of casualty, Tenant may terminate this Lease upon notice to Landlord.

(iv.) If neither party declares this lease terminated pursuant to Article 11 (B)(ii), then, subject to Article 11(B)(iii)), Landlord shall complete repairs to the Leased Premises as soon as reasonably practicable and rent shall equitably abate as described in Article 11(B)(i).

#### ARTICLE 12 EMINENT DOMAIN

If any part of the Leased Premises shall be taken for public or quasi-public use by right of eminent domain, or transferred by agreement in connection with such public or quasi-public use, with or without any condemnation, action or proceeding being instituted, this Lease shall terminate as of the date title shall vest in the condemnor or transferee. In the event of any taking or appropriation whatsoever, Tenant shall have no claim against Landlord, but this provision shall not preclude Tenant from recovering damages against the condemning authority or transferee.

### ARTICLE 13 DEFAULT AND REMEDIES

This Lease is made upon the condition that Landlord and Tenant will punctually and faithfully perform all of the covenants and agreements to be performed as set forth herein, and the occurrence of any of the following shall constitute an event of default and a breach of the Lease by the respective party:

#### Section 13.01 Instances of Default by Tenant:

- (a) Any item comprising Rent remaining unpaid for ten (10) calendar days, after receipt of written notice of nonpayment from Landlord to Tenant;
- (b) The Leased Premises shall be abandoned without the payment of Rent;
- (c) There shall be an attachment, execution, or other judicial seizure of substantially all of Tenant's assets or interest, and such attachment, execution or seizure is not bonded or discharged within fifteen (15) days after Landlord's notice to Tenant;
- (d) A failure by Tenant to observe or perform any of the other covenants, agreements, or conditions of this Lease and said failure shall continue for a period of thirty (30) calendar days after receipt of written notice of such default (provided such default can be cured within thirty (30) days and if not, then within a reasonable time, provided Tenant commenced such remedy within the thirty (30) days and pursues such remedy with due diligence).

#### Section 13.02 Landlord's Remedies.

- (a) Landlord may terminate this Lease and re-enter the Leased Premises and dispose and remove therefrom Tenant, or other occupants claiming under Tenant, and their property without being liable therefor;
- (b) Landlord may bring suit for the collection of all amounts with respect to which Tenant is in default;
- (c) Landlord may, upon the reletting of the Leased Premises, collect from Tenant the difference, if any, between the rent contractually due Landlord from Tenant and the rent contractually due Landlord from any such new tenant;
- (d) Landlord may, but shall not be obligated to, cure such default at its expense and collect from Tenant the reasonable costs incurred in curing such default;
- (e) Landlord shall have any and all remedies available to it under law or in equity.

#### Section 13.03 Instances of Default by Landlord.

- (a) A failure by Landlord to observe or perform any of the other covenants, agreements, or conditions of this Lease and said failure shall continue for a period of thirty (30) calendar days after written notice of such default (provided such default can be cured

within thirty (30) days and if not, then within a reasonable time, provided Landlord commenced such remedy within the thirty (30) days and pursues such remedy with due diligence), except that in the event of an emergency situation (which shall be defined herein as a situation which materially effects Tenant's ability to use the Premises), Landlord shall remedy such situation within twenty four (24) hours of notice of such default.

Section 13.04 Tenant's Remedies.

(a) Tenant may, but shall not be obligated to, cure such default of Landlord at its expense and collect from Landlord the reasonable costs incurred in such default;

(b) If Landlord fails to reimburse as set forth above, Tenant shall have the right to deduct such expenses from any amount due Landlord;

(c) Tenant shall have any and all remedies available to it under law or in equity, including the right to terminate the lease if Landlord defaults and fails to cure such default.

Section 13.05 Mitigation of Damages. Landlord and Tenant hereby warrant and represent that in any and all instances of default, the non-defaulting party shall use reasonable efforts to mitigate its damages.

Section 13.06 No Limitation of Rights and Remedies. All rights and remedies of Landlord and/or Tenant enumerated herein shall be cumulative and shall not be construed to exclude any other remedies allowed at law or in equity.

ARTICLE 14 SUBORDINATION AND NONDISTURBANCE

Section 14.01 Subordination. Landlord shall have the right at any time, and from time to time, to place upon the real property of which the Leased Premises are a part, or upon any underlying leasehold estate, any mortgage or mortgages which shall be wholly prior to the rights of Tenant under this Lease, and Tenant will, upon demand, execute any and all instruments necessary to subject and subordinate this Lease, and all rights granted to Tenant by this Lease, to any such mortgage or mortgages hereof, provided that each such mortgage provides Tenant with a non-disturbance agreement in a form and substance reasonably acceptable to Tenant. Furthermore, Tenant hereby agrees that it shall, within thirty (30) days from receipt of a request therefore, execute and deliver to Landlord, an estoppel certificate setting forth the name of Tenant, the date of this Lease, describing the Leased Premises and the rent payable therefore, and certifying that this Lease is either in full force and effect or specifically enumerating any conditions of default with respect thereto.

Section 14.02 Nondisturbance. Provided Tenant is not in default of this Lease, the right of possession of Tenant to the Leased Premises and Tenant's rights under this Lease shall not be affected or disturbed by the mortgagee in the exercise of any of the rights under the mortgage or the note secured thereby, nor shall Tenant be named as a party defendant to any foreclosure of the lien or mortgage, nor in any other way be deprived of its rights under this Lease. In the event that the mortgagee, or any other person, acquires title to the Leased Premises pursuant to the exercise of any remedy provided for in its mortgage,

this Lease shall not be terminated or affected by said foreclosure or sale, or any of the proceeding initiated by the mortgagee, and the mortgagee shall agree that any sale of the Leased Premises pursuant to the exercise of any rights and remedies under the mortgage, or otherwise, shall be made subject to this Lease and the rights of Tenant hereunder. Tenant agrees to attorn to the mortgagee or such person as its new landlord, and this Lease shall continue in full force and effect as a direct lease between Tenant and any new Landlord or such other person, upon all of the terms, covenants, conditions and agreements set forth in this Lease.

## ARTICLE 15 HAZARDOUS MATERIALS AND ENVIRONMENTAL CONCERNS

Section 15.01 Landlord's Representations and Covenants. Landlord represents and warrants to Tenant that there are no soil contamination conditions in, on or under the real property underlying or surrounding the Leased Premises, or the building of which it forms a part, and covenants that no asbestos or other toxic or hazardous substances have been or will be used in constructing the Leased Premises, the building of which it forms a part, or any improvements therein. Landlord agrees to indemnify, defend and hold harmless Tenant, its affiliates, and their respective officers, agents and employees, from and against any and all claims, damages, costs, liabilities and/or expenses, including attorneys' fees and remediation or cleanup costs, resulting from any breach of Landlord's representations, warranties or covenants contained herein, or from any soil contamination, toxic or hazardous substances, or other health or environmental hazards, in or under the Leased Premises, the building of which the same forms a part, or the underlying or surrounding real property, as of the Commencement Date.

Section 15.02 Tenant's Representations and covenants. Tenant represents and covenants that, in connection with its use and occupancy of the Leased Premises, no toxic or hazardous substance will be discharged, released, disposed of, spilled or leaked by Tenant, its officers, agents or employees, in, on, or upon the Leased Premises, the building of which it forms a part or the underlying or surrounding real property, and that neither Tenant, nor any of its officers, agents or employees, will bring in, on or incorporate into the Leased Premises, any asbestos or other hazardous or toxic substance. Tenant agrees to indemnify, defend and hold harmless Landlord, its affiliates and their respective officers, agents and employees, from and against any and all claims, damages, costs, liabilities and/or expenses, including attorneys' fees and remediation or cleanup costs, resulting from any breach by Tenant of any of its covenants or obligations contained herein.

## ARTICLE 16 MISCELLANEOUS

Section 16.01 Signage. Tenant shall have the right, at its sole cost and expense, to install signage on the exterior pylon sign serving the Building. Tenant shall be permitted to install window clings on the interior windows of the unit, subject to all applicable codes. Said approval shall not be unreasonably withheld. Tenant warrants and represents that such signage shall be in accordance with all federal, state and local laws and regulations.

Section 16.02 Late Charge. Rent shall be payable in legal tender of the United States of America on the first of each month. All rent and other charges not paid

within ten (10) days shall bear late charges equal to Three percent (3%) of the monthly rent payment, which shall be payable as Rent.

Section 16.03 Holding Over. If Tenant shall continue in possession of the Leased Premises beyond the termination date of this Lease without first having extended this Lease and further provided Landlord and Tenant are not involved in good faith lease negotiations, such continued possession shall be considered an extension of this Lease for a further period of thirty (30) days and so on from month to month. All other terms and conditions of this Lease shall be in full force and effect and the monthly rent during any such period of continued possession shall be equal to 110% of the rent payable at the time of the extension.

Section 16.04 Quiet Enjoyment. Landlord covenants and agrees that, so long as Tenant is not in default of this Lease, Tenant shall at all times during the term hereof have the peaceable and quiet enjoyment and possession of the Leased Premises without any interference or hindrance from Landlord or any person or persons claiming by or through Landlord.

Section 16.05 Waiver. No consent or waiver, expressed or implied, by either party to or of any breach of any covenant, condition, or duty of the other party shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition, or duty to be observed by the other party.

Section 16.06 Rules and Regulations. Landlord shall have the right from time to time to prescribe reasonable rules and regulations, which, in its reasonable judgment, may be desirable, for the use, entry, operation, and management of the Leased Premises and the building, which reasonable rules and regulations shall become a part of this Lease. Tenant agrees to comply with such reasonable rules and regulations, provided, however, that such rules and regulations shall not contradict or abrogate any right or privilege herein expressly granted to Tenant.

Section 16.07 Force Majeure. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of an act required by it hereunder by reason of strikes, lockouts, inability to procure labor or materials, riots, insurrections, wars or other reason of a similar nature beyond the reasonable control of the party delayed in performing its obligations, then performance of such act shall be extended for a period equivalent to the period of such delay. Delays or failures to perform due to lack of funds shall not be deemed delays beyond the reasonable control of the party.

Section 16.08 Authority. Landlord hereby warrants that it owns the Building, and the land on which it sits free and clear, subject to the provisions of Article 14 above, and in fee simple absolute and that it is fully authorized and empowered to offer the Premises for lease pursuant to the terms of this Lease. Each party to this Lease hereby represents and warrants that it is executing this Lease with the full and proper authority and that the parties whose names appear hereon are duly authorized and empowered to make and execute this Lease.

Section 16.09 Notices. Any notice or consent required or permitted to be given by or on behalf of either party to the other shall be given by mailing such notice or

consent by United States certified or registered mail, return receipt requested, or via a reputable overnight courier service which provides proof of delivery addressed to the parties as set forth above or at such other address as may be specified from time to time in writing delivered to the other party. Notices shall be effective upon receipt or refusal, as the case may be:

Tenant: Wicomico County, Maryland  
Attn: Wayne Strausburg/Director of Administration  
125 N Division St  
Salisbury, MD 21801

Landlord: E. S. Adkins, LLC  
Suite 1100  
799 N. Salisbury Blvd.  
Salisbury, MD 21801

Section 16.10 Commission. Landlord and Tenant each warrant and represent that there were no real estate brokers or agents involved in this transaction, other than John M. McClellan of SVN-Miller Commercial Real Estate (Broker). Landlord represents and warrants that it shall be responsible for paying any and all commissions owing to Brokers.

Section 16.11 Successors and Assigns. All the terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of legal representatives, successors, and assigns of Landlord and Tenant.

Section 16.12 Merger and Amendment. This lease supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the Leased Premises and contains all of the covenants, agreements, and other obligations between the parties hereto with respect to the Leased Premises. No waivers, alterations, or modifications of this Lease or any agreements in connection therewith shall be valid unless in writing and duly executed by all parties hereto.

Section 16.13 Construction of Lease. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant. Paragraph headings in this Lease are for convenience only and are not to be construed as a part of this Lease or in any way defining, limiting, or amplifying the provisions hereof. Time is of the essence of this Lease and of every term, covenant, and condition hereof. The words "Landlord" and "Tenant", as herein used, shall include the plural as well as the singular. The neuter gender includes the masculine and feminine. In the event there is more than one Tenant, the obligations to be performed shall be joint and several. Landlord and Tenant agree that in the event any term, covenant, or condition therein contained is held to be invalid or void by any court of competent jurisdiction, the invalidity of such term, covenant, or conditions shall in no way affect any other term, covenant, or conditions herein contained. This Lease shall be interpreted in accordance with the laws of the State of Maryland, excluding its principles of conflicts of law.

Section 16.14 Surrender. Upon the termination of this Lease, or upon the termination of Tenant's right to possession of the Leased Premises without the termination of this Lease, Tenant shall surrender possession and vacate the Leased Premises immediately and Landlord may re-enter into and repossess the Leased Premises, and remove all persons and property there from in the same manner and with the same right as if this Lease had not been made.

Section 16.15 Severability. In the event that any portions, articles or sections of this Lease are rendered invalid by the decision of any court or by the enactment of any law, ordinance or regulation, such provision of this Lease will be deemed to have never been included therein and the balance of the Lease shall continue in full force and effect.

Section 16.16 Parking. Except as outlined in Section 1.02 and 1.03 above, Tenant shall be entitled to the use of unreserved parking spaces for the use of its agents, employees and customers.

Section 16.17 Right To Terminate. At any time after the end of Year 3, Tenant shall have the right to terminate with 6 months advanced written notice and shall pay 2 months base rent at their current rate as a termination fee.

Section 16.18 Expansion. Landlord will use its best commercially reasonable efforts to notify Tenant of any new vacancies becoming available within the ES Adkins complex (799-805 North Salisbury Boulevard). Landlord shall wait ten (10) days after said notice to Tenant before publicly offering any newly available space for lease

IN WITNESS WHEREOF, this instrument has been executed by Landlord and Tenant as of the day and year first above written.

\_\_\_\_\_  
WITNESS/ATTEST:

\_\_\_\_\_  
LANDLORD: E. S. Adkins, LLC

\_\_\_\_\_  
By Name & Title

\_\_\_\_\_  
WITNESS/ATTEST:

\_\_\_\_\_  
Tenant: Wicomico County, Maryland

\_\_\_\_\_  
By Name & Title

## LEGAL APPROVAL

TO: Executive  
FROM: Legal  
DATE: 11/15/18  
DOCUMENT: Lease  
REQUESTING DEPARTMENT: Health Dept./Executive  
COUNTER-PARTY, ETC: E.S. Adkins  
TO BE EXECUTED BY: Executive

**The attached document is approved for form and legal sufficiency.**

Please:

1. Execute.
2. Forward to requesting department.
3. Provide Law Dept. with executed copy.

ROSCOE LESLIE  
ATTORNEY FOR COUNTY ATTORNEY