

January 30, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval for Agreement #9568 a Lease Agreement  
between Clackamas County Health Centers Division (CCHCD) and  
Genoa Healthcare, LLC, for rental of clinical space.

<b>Purpose/Outcomes</b>	Provides CCHCD an on-site pharmacy for patients to fill prescriptions after a healthcare visit to the Beavercreek clinic.
<b>Dollar Amount and Fiscal Impact</b>	CCHCD receives \$631.84 revenue monthly with a 3% maximum increase each fiscal year. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	Genoa Healthcare, LLC
<b>Duration</b>	Effective January 1, 2020 and it terminates on June 30, 2023.
<b>Previous Board Action</b>	No previous Board action.
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
<b>Counsel Review</b>	County Counsel has reviewed and approved this document. It was approved on January 14, 2020.
<b>Contact Person</b>	Deborah Cockrell 503-742-5495
<b>Contract No.</b>	9568

**BACKGROUND:**

CCHCD of the Health, Housing and Human Services Department requests the approval of Agreement #9568 to a Lease agreement with Genoa Healthcare, LLC, for the purpose of providing an on-site pharmacy inside the Beavercreek clinic. This on-site service will ensure patients get their medication as prescribed by providers at the conclusion of their healthcare appointment.

This is a revenue contract for CCHCD. The total amount of the agreement is projected to be \$36,463.32 with a maximum 3% increase to the monthly rental rate each fiscal year. No County General Funds are involved. The Agreement is effective upon signature and will terminate on June 30, 2023.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

 *Richard Swift*, H3S Director

Richard Swift, Director  
Health, Housing, and Human Services

**LEASE AGREEMENT**  
**Beavercreek Pharmacy Lease**

**#9568**

This Lease is entered into effective January 1, 2020, by and between CLACKAMAS COUNTY, a political subdivision of the State of Oregon, hereinafter called "Lessor," and GENOA HEALTHCARE, LLC (f/k/a Genoa, a QoL Healthcare Company), hereinafter called "Lessee".

The parties have agreed as follows:

**Section 1. LEASE TERM:**

In consideration of the agreements herein contained, the Lessor does hereby let and lease the premises described below to the Lessee to have and to hold from January 1, 2020 through June 30, 2023, unless terminated sooner.

The Lease may be renewed for additional periods upon such terms as are agreed to by the parties in writing.

**Section 2. CONTACT PERSONS:**

Lessee and Lessor will have Contract Administration Persons and Emergency Contacts identified in this agreement for purposes of notification. In the event that Lessor has a change in staff from the persons identified in this agreement a notification will be provided to both county contacts listed below with that update.

Contract Administration Key Persons:

Lessee contact: Bethany Mitricska, Manager Administration Operations, 651-447-4445 or [bmitricska@genoahealthcare.com](mailto:bmitricska@genoahealthcare.com)

Lessor contact: Ed Johnson, Administrative & Financial Services Manager, 503-742-5325 or [ejohnson@clackamas.us](mailto:ejohnson@clackamas.us)

Emergency Contacts:

Lessee contact: Jennifer Cunningham, Pharmacist, 503-841-7782 or [jecunningham@genoahealthcare.com](mailto:jecunningham@genoahealthcare.com)

Lessor contact: Clackamas County Facilities Management, 503-557-6416 or [facilitiesmanagement@clackamas.us](mailto:facilitiesmanagement@clackamas.us)

**Section 3. PREMISES:**

The premises subject to this Lease are a portion of a building known as the Clackamas County Beavercreek Health Clinic, located at 110 Beavercreek Road, Ste. 102, Oregon City, Oregon (the "Pharmacy"), as described in Exhibit A, attached hereto and incorporated by this reference herein. The leased premises consist of 476 square feet of the Clinic and availability of five (5) adjoining parking spaces located on Clackamas County's Red Soils Campus, Assessor's Map T3S, R2E, Section 05C, Tax Lot 00812 (the "Premises"), as depicted on the map in Exhibit B, attached hereto and incorporated by this

reference herein. Lessor will secure the leased space whenever there is an absence of staff or outside of operational hours.

**Section 4. BASE RENT:**

Monthly rent for the Premises is six-hundred thirty-one dollars and eighty-four cents (\$631.84). Rent includes utilities (electricity, natural gas, and water/sewer). It does not include costs for the following expenses that may be incurred with respect to the Premises: telephone service, fax line, computer service and data lines, hazardous waste disposal, janitorial services, and real property or personal property taxes, all of which are the responsibility of the Lessee.

The lease rate shall be fixed for each County fiscal year (July 1 – June 30), and begin at \$15 per square foot per year for the first year of the Lease. At the beginning of each new fiscal year after July 1<sup>st</sup>, and for the duration of the Lease, the rate shall increase by a percentage up to the corresponding change in the Portland Consumer Price Index for All Urban Consumers (CPI-U) for the previous fiscal year, but in no event less than three percent (3%). For example, if the percentage of increase in the Portland CIP-U is less than 2.7%, the rent will increase by 3% for the next year.

Rent not paid when due shall, after ten (10) days' written notice, bear simple interest at the rate of one-and-one-half percent (1.5%) per month until paid.

**Section 5. USE AND ENJOYMENT:**

Lessor covenants that Lessee shall be entitled to possession of the premises for operation of an on-site pharmacy. Lessee covenants not to use the premises for any other purpose without Lessor's prior written consent, or for any unlawful purpose. Lessee shall not allow the creation of any nuisance upon the premises nor create any nuisance upon the same.

**5.1. Restrictions on Use.** In connection with the use of the Premises, Lessee shall:

5.1.1 Comply with all applicable laws and regulations regarding Lessee's use of the Premises,

5.1.2 Refrain from any activity negatively impacting Lessor's ability to insure the Premises or would increase Lessor's existing insurance rate.

5.1.3 Refrain from any use that would be reasonably offensive to other Lessees or owners or users of neighboring properties or that would tend to create a nuisance or damage the reputation of the property.

**Section 6. POSSESSION:**

Lessee shall be entitled to full use and possession of the premises for the entire Lease term unless the Lease is terminated as provided herein.

**Section 7. PROPERTY TAXES:**

This Lease is a net lease. Except as expressly provided in this Lease, Lessee will be responsible for paying all costs and expenses relating to the Premises, including any real and personal property taxes, fees, utilities (other than those in Section 4, above), maintenance, repairs, interior and exterior structural repairs, interior and exterior nonstructural repairs, insurance, and all other costs and expenses relating

to the Premises. Without notice or demand and without abatement, deduction, or setoff except as may be otherwise provided in this Lease, Lessee is required to pay, all sums, impositions, costs, and other payments that Lessee assumes or agrees to pay in any provision of this Lease. If Lessee fails to make a payment, Lessor will have (in addition to all other rights and remedies) all the rights and remedies provided for in this Lease or by law for nonpayment of rent.

**7.1. Condition of Premises.** Lessor makes no representations or warranties, express or implied, as to the condition of the Premises or its fitness for any particular use by Lessee. Lessee takes the Premises as-is. If conditions pre-exist, or arise, which are determined to be violations of any state or federal OSHA rule or regulation, or any specialty code requirement, Lessor shall make every effort to achieve full compliance within thirty (30) days.

In the event Lessor does not correct any condition as required in items 1 and 2 above, Lessee has the right to terminate this Lease immediately, and shall have no further responsibility to Lessor under this Lease agreement.

**Section 8. INSPECTION:**

Lessor shall have the right personally and through Lessor's agents and workmen to enter into and upon the premises at any reasonable time to perform building maintenance, inspect the premises, and examine the condition thereof, so long as Lessor is accompanied by an Oregon State licensed pharmacist. In the event of an emergency, Lessor may enter the Premises so long as Lessor is accompanied by emergency personnel. Whether or not such inspection is made, the duty of Lessor to make repairs shall not mature until a reasonable time after Lessor has given Lessee written notice of the repairs that are required.

Lessor shall provide Lessee with access to the common areas and Premises twenty (24) hours per day, seven (7) days per week; however, Lessee shall only operate during normal business hours. Lessor shall provide Lessee with a key and/or security card to permit such access. Lessee shall be permitted to install any security system Lessee deems necessary at Lessee's sole cost and expense.

**Section 9. ALTERATIONS:**

Lessee will make no improvements or alterations on the premises of any kind without first obtaining written consent of Lessor. All alterations shall be made in a good and workmanlike manner, and in compliance with applicable laws and building codes. *Alterations* include the installation of computer and telecommunications wiring, cables, and conduit.

All alterations undertaken by Lessee shall be at Lessee's sole expense. Any alterations or improvements by Lessee that cannot reasonably be removed by Lessee without damaging the premises shall become the property of the Lessor upon termination of this Lease.

**Section 10. SIGNS:**

No signs, awnings, antennas, or other apparatus shall be painted on or attached to the building, nor any thing placed on the exterior of the premises without Lessor's written approval, which shall not be unreasonably withheld. All signs installed by Lessee shall comply with Lessor's standards for signs and all applicable codes and ordinances, and all signs and sign hardware shall be removed upon termination of

this Lease, with the sign location restored to its former state unless Lessor elects to retain all or any portion thereof.

**Section 11. REPAIRS and MAINTENANCE:**

Lessee is responsible for any damage caused to the Premises as a result of Lessee's acts or omissions. All maintenance and repairs on or around the leased premises shall be performed by Lessor, subject to reimbursement by Lessee, and done in such a way as to interfere as little as reasonably possible with the use of the premises by the Lessee. Lessor's Facilities Management will be responsible for all repairs and maintenance issues that arise. It is the Lessee's responsibility to contact Facilities Management at the phone number of 503-557-6416 or via email to: [facilitiesmanagement@clackamas.us](mailto:facilitiesmanagement@clackamas.us), once they are aware or made aware of maintenance needs. Lessee shall have no right to an abatement of rent or any claim against Lessor for any inconvenience or disturbance resulting from Lessor's activities performed in conformance with the requirement of this provision.

Notwithstanding the above term, Lessee shall maintain premises in a neat condition, free of trash and debris, in good order and repair. Lessee shall not commit waste to the Premises.

Lessee shall promptly notify Lessor of any necessary repairs and shall, if necessary to protect the leased premises from imminent damage, prior to such notice, arrange for reasonably necessary emergency repairs. Payment for emergency repairs to the Premises shall be the responsibility of Lessor with reimbursement by Lessee.

**Section 12. LIEN CLAIMS AND LIABILITY:**

Except with respect to activities for which Lessor is responsible, Lessee shall pay as due all claims for work done on and for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens.

If Lessee fails to pay any such claims or to discharge any lien, Lessor may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of nine percent (9%) per annum from the date expended by Lessor and shall be payable on demand. Such action by Lessor shall not constitute a waiver of any right or remedy that Lessor may have on account of Lessee's default.

Lessee may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as Lessor's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Lessee shall, within ten (10) days after knowledge of the filing, secure the discharge of the lien or deposit with Lessor cash or sufficient corporate surety bond or other surety satisfactory to Lessor in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

**Section 13. PLACE OF PAYMENT AND NOTICE:**

Any notice required or permitted under this Lease shall be given when actually delivered or forty eight (48) hours after deposited in United States mail as certified mail return receipt requested addressed to the address set out below or to such other address as may be specified from time to time by either of the parties in writing.

Any notice to which Lessor shall be entitled under this Lease shall be delivered or sent to Clackamas County Facilities Management, 1710 S Red Soils Ct. #200, Oregon City, OR 97045. Notice for Lessee shall be mailed to Genoa Healthcare, Attn: General Counsel; 707 S. Grady Way, Suite 700, Renton, WA 98057. Place for notices may be changed by written notice from the party changing address.

**Section 14. INDEMNIFICATION:**

Lessee agrees to indemnify, defend, and hold harmless Lessor, and its officers, agents, and employees against any and all liability, loss, and costs arising from actions, suits, claims, or demands, except when due to Lessor's sole negligence, arising from or related to this Lease and the use of the Premises.

However, neither Lessee nor any attorney engaged by Lessee shall defend the claim in the name of Lessor, nor purport to act as legal representative of Lessor, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for Lessor, nor shall Lessee settle any claim on behalf of Lessor without the approval of the Clackamas County Counsel's Office. Lessor may, at its election and expense, assume its own defense and settlement.

Lessee shall be responsible for insuring its personal property and trade fixtures located on the premises and any alterations or tenant improvements it has made to the Premises. Neither Lessor nor Lessee shall be made liable to the other for any loss or damage caused by water damage, sprinkler leakage, or any of the risks that are or could be covered by a standard all risk insurance policy with an extended coverage endorsement. The parties expressly acknowledge Lessor's self-insurance coverage is sufficient to satisfy Lessor's obligation to maintain coverage for the aforementioned losses or damages.

Lessor shall have no liability to Lessee for any injury, loss, or damage caused by third parties, or by any condition of the Premises. Lessor shall have no liability for the failure or interruption of utilities.

**Section 15. LIABILITY INSURANCE:**

Lessee shall procure and maintain during the term of the Lease the following insurance at Lessee's cost: commercial general liability policy (occurrence version) in a responsible company with coverage for bodily injury and property damage liability, personal and advertising injury liability, and medical payment with a general aggregate limit of not less than two million dollars (\$2,000,000) and a per occurrence limit of not less than one million dollars (\$1,000,000). Such insurance shall cover all risks arising directly or indirectly out of Lessee's activities on or any condition of the Premises whether or not related to an occurrence caused or contributed to by Lessor's negligence. Such insurance shall protect Lessee against the claims of Lessor on account of the obligations assumed by Lessee under Indemnification, and shall name Lessor as an additional insured. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days' written notice to Lessor before any change or cancellation shall be furnished to Lessor before Lessee's occupancy of the Premises.

**Section 16. TOTAL OR PARTIAL DESTRUCTION:**

If the Premises are partly damaged and the cost of repair does not exceed 50% of the value of the structure before the damage, the damage shall be repaired by Lessee at Lessee's expense. Repairs shall be accomplished as soon as reasonably possible subject to interruptions and delays from labor disputes and matters beyond the control of Lessee and shall be performed in a good and workmanlike manner, and in compliance with applicable laws and building codes.

If the property is destroyed or damaged such that the cost of repair exceeds fifty percent of the value of the structure before the damage, either party may elect to terminate the Lease as of the date of the damage or destruction by notice given to the other in writing not more than ten (10) days following the date of damage. In such event all rights and obligations of the parties shall cease as of the date of termination. If neither party elects to terminate, Lessor shall proceed to restore the property to substantially the same form as prior to the damage or destruction. Work shall be commenced as soon as reasonably possible and thereafter shall proceed without interruption except for work stoppages on account of labor disputes and matters beyond Lessor's reasonable control. In the event that the

In the event that the Premises becomes damaged to the extent that it cannot be used by Lessee for any period of time Lessor will in no way be responsible to find or pay for replacement facilities for Lessee. Rent shall not be abated during the repair of any damage to the extent the property is untenantable.

**Section 17. HAZARDOUS SUBSTANCES:**

Lessee shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed or, or otherwise released on or under the premises. Lessee may use or otherwise handle on the premises only those Hazardous Substances typically used in the prudent and safe operation of Lessee's permitted use of the premises. Lessee may store such Hazardous Substances on the premises only in quantities necessary to satisfy Lessee's reasonably anticipated needs. Lessee shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the premises. The term *Environmental Law* shall mean any federal, state, or local status, regulation, or ordinance, or any judicial or other governmental order pertaining to the protection of health, safety, or the environment. The term *Hazardous Substance* shall mean any hazardous, toxic, infectious, or radioactive substance, waste, or material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

**Section 18. EMINENT DOMAIN:**

**18.1. Partial Taking.**

If a portion of the Premises is condemned and Section 1 does not apply, the Lease shall continue on the following terms:

Lessor shall be entitled to all of the proceeds of condemnation, and Lessee shall have no claim against Lessor as a result of the condemnation.

18.1.1. Lessor shall proceed as soon as reasonably possible to make such repairs and alterations to the Premises as are necessary to restore the remaining Premises to a condition as comparable as reasonably practicable to that existing at the time of the condemnation.

18.1.2. After the date on which title vests in the condemning authority or an earlier date on which alterations or repairs are commenced by Lessor to restore the balance of the Premises in anticipation of taking, the rent shall be reduced in proportion to the reduction in value of the Premises as an economic unit on account of the partial taking.

18.1.3. If a portion of Lessor's property not included in the Premises is taken, and severance damages are awarded on account of the Premises, or an award is made for detriment to the

Premises as a result of activity by a public body not involving a physical taking of any portion of the Premises, this shall be regarded as a partial condemnation to which Sections 18.1.1 and 18.1.2 apply, and the rent shall be reduced to the extent of reduction in rental value of the Premises as though a portion had been physically taken.

**18.2. Total Taking.**

If a condemning authority takes all of the Premises or a portion sufficient to render the remaining premises reasonably unsuitable for the use that Lessee was then making of the premises, the Lease shall terminate as of the date the title vests in the condemning authorities. Such termination shall have the same effect as a termination by Lessor under Section 9.2. Lessor shall be entitled to all of the proceeds of condemnation, and Lessee shall have no claim against Lessor as a result of the condemnation.

**18.3. Sale in Lieu of Condemnation.**

Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for the purposes of this Section 10 as a taking by condemnation.

**Section 19. ASSIGNMENT AND SUBLETTING:**

No part of the Premises may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the Premises be conferred on any third person by any other means, without the prior written consent of Lessor. This provision shall apply to all transfers by operation of law. If Lessee is a corporation, limited liability company, or partnership, this provision shall apply to any transfer of a majority voting interest in stock, membership or partnership interest of Lessee. No consent in one instance shall prevent the provision from applying to a subsequent instance. Lessor may withhold or condition such consent in its sole discretion.

**Section 20. WAIVER:**

Waiver by either party of strict performance of any provision of the Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

**Section 21. DEFAULT:**

The following shall be events of default:

**21.1. Default in Rent.**

Failure of Lessee to pay any rent or other charges within ten (10) days written notice after it is due.

**21.2. Default in Other Covenants.**

Lessee fails to comply with any term or condition or fulfill any obligation of the Lease (other than the payment of rent or other charges) within twenty (20) days after the date of written notice by Lessor specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the twenty (20) day period, this provision shall be complied with



if Lessee begins correction of the default within the twenty (20) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

**21.3. Insolvency.**

Insolvency of Lessee: an assignment by Lessee for the benefit of creditors; the filing by Lessee of a voluntary petition in bankruptcy; an adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; the filing of any involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Lessee to secure discharge of the attachment or release of the levy of execution within ten (10) days shall constitute a default. If Lessee consists of two or more individuals or business entities, the events of default specified in this Section 14.3 shall apply to each individual unless within ten (10) days after an event of default occurs, the remaining individuals produce evidence satisfactory to Lessor that they have unconditionally acquired the interest of the one causing the default. If the Lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Lessee under the Lease.

**21.4. Abandonment.**

Failure of Lessee for ten (10) days or more to occupy the Premises for one or more of the purposes permitted under this Lease, unless such failure is excused under other provisions of this Lease.

**Section 22. TERMINATION AND DEFAULT:**

**22.1. Termination other than for Default.** Lessor may terminate this Lease in the event the Lessor fails to receive expenditure authority sufficient to allow the Lessor, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited or the Lessor is prohibited from performing under this Lease from the planned funding source. In such an event, Lessee shall vacate the Premises within thirty (30) days of termination under this Subsection 22.1.

**22.2. Termination for Default.** In the event of a default the Lease may be terminated at the option of Lessor by written notice to Lessee. Whether or not the Lease is terminated by the election of Lessor or otherwise, Lessor shall be entitled to recover damages from Lessee for the default, and Lessor may reenter, take possession of the Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

**22.3. Reletting.** Following reentry or abandonment, Lessor may relet the Premises and in that connection may make any suitable alterations or refurbish the Premises, or both, or change the character or use of the Premises, but Lessor shall not be required to relet for any use or purpose other than that specified in the Lease or which Lessor may reasonably consider injurious to the Premises, or to any Lessee that Lessor may reasonably consider objectionable. Lessor may relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, on any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

**22.4. Damages.** In the event of termination or retaking of possession following default, Lessor shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:

22.4.1 The loss of rental from the date of default until a new Lessee is, or with the exercise of reasonable efforts could have been, secured and paying rent.

22.4.2 The reasonable costs of reentry and reletting including without limitation the cost of any cleanup, refurbishing, removal of Lessee's property and fixtures, costs incurred under Section 22.3, or any other expense occasioned by Lessee's default including any remodeling or repair costs, attorney fees, court costs, broker commissions, and advertising costs.

22.4.3 Any excess of the value of the rent and all of Lessee's other obligations under this Lease over the reasonable expected return from the Premises for the period commencing on the earlier of the date of trial or the date the Premises are relet, and continuing through the end of the term. The present value of future amounts will be computed using a discount rate equal to the average prime loan rate of three largest Oregon banks based on total deposits in effect on the date of trial.

**22.5. Right to Sue More than Once.** Lessor may sue periodically to recover damages during the period corresponding to the remainder of the lease term, and no action for damages shall bar a later action for damages subsequently accruing.

**22.6. Lessor's Right to Cure Non-payment Defaults.** If Lessee fails to perform any non-payment obligation under this Lease, Lessor shall have the option to correct the default so after ten (10) days' written notice to Lessee. All of Lessor's expenditures to correct the default shall be reimbursed by Lessee on demand with interest at the rate of nine percent (9%) per annum from the date of expenditure by Lessor. Such action by Lessor shall not waive any other remedies available to Lessor because of the default.

**22.7. Remedies Cumulative.** The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Lessor under applicable law.

**22.8 Compliance with Pharmacy Laws on Termination.** Notwithstanding anything set forth in this Lease to the contrary, Lessor shall not interfere with Lessee's compliance with applicable pharmacy laws, rules or regulations and Lessee's proper handling or disposition of its pharmaceutical products upon termination of this Lease. This provision shall be effective even upon a termination of this Lease by Lessor following the occurrence of a default. Lessee shall, to the maximum extent permitted by applicable law, comply with applicable pharmacy laws, rules or regulations in a manner consistent with the terms of this Lease.

### **Section 23. MUTUAL TERMINATION:**

This Lease can be terminated by either party with ninety (90) days' written notice.

The parties have executed a separate professional services contract, dated September 27, 2018, ("Professional Services Contract"). If the Professional Services Contract between the parties is terminated, then this Lease shall automatically terminate with the same effective date as the termination of the Professional Services Contract.

### **23.1. Surrender at Expiration**

**23.1.1. Condition of Premises.** On expiration of the lease term or earlier termination, Lessee shall surrender the Premises in first-class condition. Alterations constructed by Lessee with permission from Lessor shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purpose for which the Premises are leased shall be expected but repairs for which Lessee is responsible shall be completed to the latest practical date before such surrender. Lessee's obligations under this section shall be subordinate to the provisions of Section 8 relating to destruction.

**23.1.2. Fixtures.** All fixtures placed on the Premises during the term shall remain the property of Lessee. Before expiration or other termination of the lease term, Lessee shall remove all furnishings, furniture, and trade fixtures. If Lessee fails to do so, this failure shall be an abandonment of the property, and Lessor may retain the property and all rights of Lessee with respect to it shall cease or, by notice in writing given to Lessee within twenty (20) days after removal was required, Lessor may elect to hold Lessee to its obligation of removal. If Lessor elects to require Lessee to remove, Lessor may effect a removal and place the property in public storage for Lessee's account. Lessee shall be liable to Lessor for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by Lessor.

### **23.2.1. Holdover.**

23.2.1.a. If Lessee does not vacate the Premises at the time required, Lessor shall have the option to treat Lessee as a Lessee from month to month, subject to all of the provisions of this Lease except the provisions for term and renewal and at a rental rate equal to current base rent as charged per month, or to eject Lessee from the Premises and recover damages caused by wrongful holdover. Failure of Lessee to remove fixtures, furniture, furnishings, or trade fixtures that Lessee is required to remove under this Lease shall constitute a failure to vacate to which this section shall apply if the property not removed will substantially interfere with occupancy of the Premises by another Lessee or with occupancy by Lessor for any purpose including preparation for a new Lessee.

23.2.1.b. If a month-to-month tenancy results from a holdover by Lessee under this Section 15.3, the tenancy shall be terminable at the end of any monthly rental period on written notice from Lessor given not less than ten (10) days before the termination date which shall be specified in the notice. Lessee waives any notice that would otherwise be provided by law with respect to a month-to-month tenancy.

### **Section 24. NONMERGER:**

There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the leasehold estate created by this Lease, or any interest in this Lease, may be held, directly or indirectly, by or for the account of any person who owns the fee estate in the Premises or any interest in such fee estate. No merger will occur unless and until all persons having an interest in the fee estate in the Premises and all persons (including all Permitted Leasehold Mortgagees) having an interest in this Lease, or in the leasehold estate created by this Lease, join in a written instrument effecting the merger and duly record the same.

**Section 25. MISCELLANEOUS**

**25.1. Non-waiver.** Waiver by either party of strict performance of any provision of this Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision. The acceptance of a late payment of rent shall not waive the failure to perform an obligation under this Lease except for the failure to pay the rent so accepted when due and shall not affect Lessor's remedies for failure to perform such other obligations.

**25.2. No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses

**25.3. Notices.** Any notice required or permitted under this Lease shall be given when actually delivered or forty eight (48) hours after deposited in United States mail as certified mail return receipt requested addressed to the address set out above or to such other address as may be specified from time to time by either of the parties in writing.

**25.4. Succession.** Subject to the above-stated limitations on transfer of Lessee's interest, this Lease shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

**25.5. Recordation.** This Lease shall be recorded without the written consent of Lessee.

**25.6. Entry for Inspection.** Lessor shall have the right to enter on the Premises at any time to determine Lessee's compliance with this Lease; to make necessary repairs to the building or to the Premises; to show the Premises to any prospective Lessee or purchaser; to conduct surveys, inspections, tests and analysis and in addition shall have the right, at any time during the last two months of the term of this Lease, to place and maintain on the Premises notices for leasing or selling of the Premises.

**25.7. Proration of Rent.** In the event of commencement or termination of this Lease at a time other than the beginning or end of one of the specified rental periods, then the rent shall be prorated as of the date of commencement or termination and in the event of termination for reasons other than default, all prepaid rent shall be refunded to Lessee or paid on its account.

**25.8. Time of Essence.** Time is of the essence of the performance of each of Lessee's obligations under this Lease.

**25.9. Non-Waiver of Governmental Rights.** Subject to the terms and conditions of this Lease, Lessor is specifically not obligating itself, or any other department of Clackamas County with respect to any discretionary action relating to the Lease or the Premises including but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

**25.10. Relationship.** Nothing contained in this Lease will create a joint venture or partnership, establish a relationship of principal and agent, establish a relationship of employer and employee, or any other relationship of a similar nature between the Lessee and Lessor.

**25.11. Integration.** Except as otherwise set forth herein, this Lease constitutes the entire agreement between the parties on the subject matter of this Lease. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Lease.

**25.12. Survival.** All provisions in Sections 7, 9, 12, 14, 15, 16, 17, 20, 21, 22, and 25 shall survive the termination of this Lease, together with all other rights and obligations herein which by their context are intended to survive.

**25.13. Further Assurances.** The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein.

**25.14. Force Majeure.** Notwithstanding any other provision herein, no party will be liable for breach or default of this Lease due to delay in performing its obligations under this Lease to the extent that delay is caused by insurrection, war, riot, explosion, nuclear incident, strikes, labor disputes, volcanoes, fire, flood, earthquake, weather, acts of God, epidemic, acts of any federal, state or local government or agency, or any other event beyond the reasonable control of the affected party.

**25.15. Applicable Law and Venue.** This Lease shall be construed, applied and enforced in accordance with the laws of the State of Oregon with giving effect to the conflict of laws provisions thereof. Any claim between Lessor and Lessee that arises from or relates to this Lease shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by Lessor of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Lessee, by execution of this Lease, hereby consents to the in personam jurisdiction of the courts referenced in this section.

**25.16. Mediation Option.** The parties acknowledge that mediation may help the parties to settle their dispute. Therefore, in case of dispute under this Lease, either party may propose mediation whenever appropriate by any mediation process or mediator as the parties may mutually agree upon (each in their sole discretion).

**25.17. Changes in Writing.** This Lease and any of its terms may only be changed, waived, discharged or terminated by written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

**25.18. Counterparts.** This Lease may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Lease.

**25.19. Invalidity of Provisions.** In the event any provision of this Lease is declared invalid or is unenforceable for any reason, such provision shall be deleted from such document and shall not invalidate any other provision contained in the document.

**25.20. Neutral Construction.** This Lease has been negotiated with each party having the opportunity to consult with legal counsel and shall not be construed against either party.

**25.21. Captions.** The captions of the section and subsections are used solely for convenience and are not intended to alter or confine the provisions of this Lease.

**25.22. Remedies.** In the event of a breach of this agreement, the parties shall have all remedies available at law or equity.

**25.23. Debt Limitation.** This Lease is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

**Section 26. ENTIRE AGREEMENT:**

This Lease contains the entire agreement of Lessor and Lessee, and all prior written and oral agreements and representations between the parties are void. Lessor and Lessee agree that there are no implied covenants or other agreements between the parties except as expressly set forth in this Lease. Neither Lessor nor Lessee is relying on any representations of the other party except those expressly set forth herein.

*The rest of this page is intentionally left blank. Signature pages below.*

**WARRANT OF AUTHORITY:**

The undersigned, \_\_\_\_\_, warrants and represents that they have full authority to sign on behalf Lessee.

**LESSOR**

CLACKAMAS COUNTY BOARD  
OF  
COUNTY COMMISSIONERS by:

\_\_\_\_\_  
Jim Bernard, Chair

Approved as to form:

\_\_\_\_\_  
Office of County Counsel

\_\_\_\_\_  
Date

**State of Oregon**  
**County of Clackamas**

This record was acknowledged before me  
on  
(date) \_\_\_\_\_ by \_\_\_\_\_  
as the Chair of Clackamas County.

Stamp (if required):

Notarial Officer  
Signature: \_\_\_\_\_

Title of Office: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**LESSEE**

GENOA, HEALTHCARE, LLC  
707 S. GRADY WAY, SUITE 700,  
RENTON, WA 98057

Mark Peterson  
Authorized Signature

Mark J. Peterson  
Printed Name

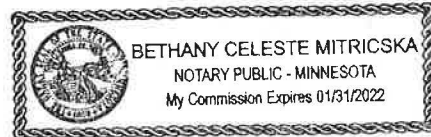
January 13, 2020  
Date

27-0556097  
Federal ID #

**State of Minnesota**  
**County of Dakota**

This record was acknowledged before me  
on  
(date) 1/13/2020 by Mark J Peterson  
as the Chief Executive Officer

Stamp (if required):



Notarial Officer  
Signature: Bethany C Mitricska

Title of Office: Notary Public

My Commission Expires: 1/31/2022

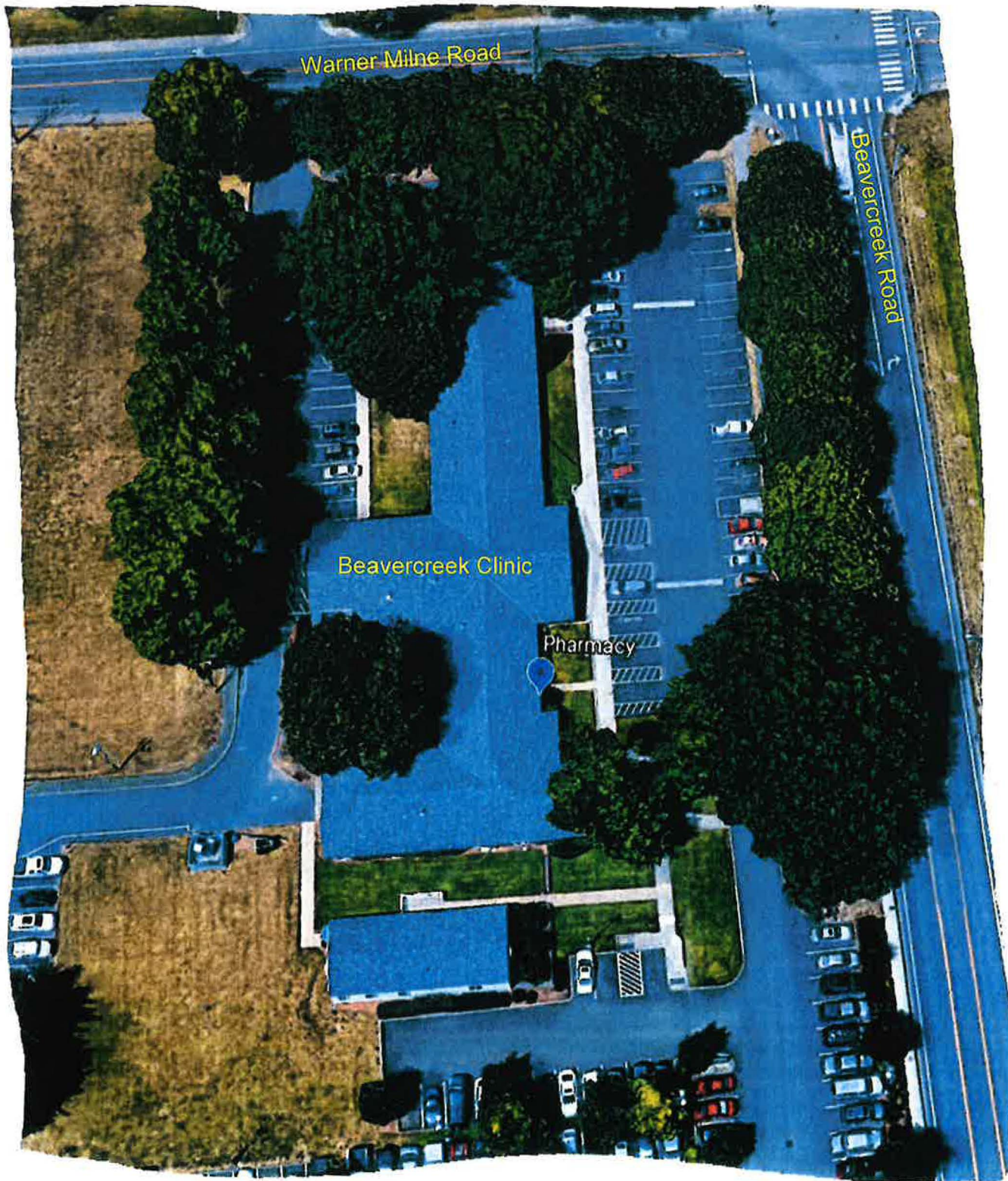


**EXHIBIT A**  
**DESCRIPTION OF PROPERTY**

**DESCRIPTION OF PROPERTY:**

The leased premises consists of 476 square feet of the Clinic and availability of five (5) adjoining parking spaces located at 110 Beavercreek Road, Suite 102, Oregon City, OR. Assessor's Map T3S, R2E, Section 05C, Tax Lot 00812 (the "Premises"). Google Earth Map of Premises is Exhibit B.

# EXHIBIT B GOOGLE EARTH MAP OF PROPERTY



January 30, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval for Agreement #9570 a Lease Agreement  
between Clackamas County Health Centers Division (CCHCD) and  
Genoa Healthcare, LLC, for rental of clinical space.

<b>Purpose/Outcomes</b>	Provides CCHCD an on-site pharmacy for patients to fill prescriptions after a healthcare visit to the Hilltop clinic.
<b>Dollar Amount and Fiscal Impact</b>	CCHCD receives \$631.84 revenue monthly with a 3% maximum increase each fiscal year. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	Genoa Healthcare, LLC
<b>Duration</b>	Effective January 1, 2020 and it terminates on June 30, 2023.
<b>Previous Board Action</b>	No previous Board action.
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
<b>Counsel Review</b>	County Counsel has reviewed and approved this document. It was approved on January 14, 2020.
<b>Contact Person</b>	Deborah Cockrell 503-742-5495
<b>Contract No.</b>	9570

**BACKGROUND:**

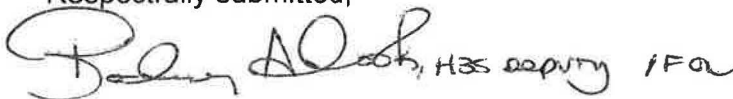
CCHCD of the Health, Housing and Human Services Department requests the approval of Agreement #9570 to a Lease agreement with Genoa Healthcare, LLC, for the purpose of providing an on-site pharmacy inside the Hilltop clinic. This on-site service will ensure patients get their medication as prescribed by providers at the conclusion of their healthcare appointment.

This is a revenue contract for CCHCD. The total amount of the agreement is projected to be \$36,463.32 with a maximum 3% increase to the monthly rental rate each fiscal year. No County General Funds are involved. The Agreement is effective upon signature and will terminate on June 30, 2023.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, Director  
Health, Housing, and Human Services

**LEASE AGREEMENT**  
**Hilltop Pharmacy Lease**

**#9570**

This Lease is entered into effective January 1, 2020, by and between CLACKAMAS COUNTY, a political subdivision of the State of Oregon, hereinafter called "Lessor," and GENOA HEALTHCARE, LLC (f/k/a Genoa, a QoL Healthcare Company), hereinafter called "Lessee".

The parties have agreed as follows:

**Section 1. LEASE TERM:**

In consideration of the agreements herein contained, the Lessor does hereby let and lease the premises described below to the Lessee to have and to hold from January 1, 2020 through June 30, 2023, unless terminated sooner.

The Lease may be renewed for additional periods upon such terms as are agreed to by the parties in writing.

**Section 2. CONTACT PERSONS:**

Lessee and Lessor will have Contract Administration Persons and Emergency Contacts identified in this agreement for purposes of notification. In the event that Lessor has a change in staff from the persons identified in this agreement a notification will be provided to both county contacts listed below with that update.

Contract Administration Key Persons:

Lessee contact: Bethany Mitricska, Manager Administration Operations, 651-447-4445 or [bmitricska@genoahealthcare.com](mailto:bmitricska@genoahealthcare.com)

Lessor contact: Ed Johnson, Administrative & Financial Services Manager, 503-742-5325 or [ejohnson@clackamas.us](mailto:ejohnson@clackamas.us)

Emergency Contacts:

Lessee contact: Jennifer Cunningham, Pharmacist, 717-451-7172 or [bstaub@genoahealthcare.com](mailto:bstaub@genoahealthcare.com)

Lessor contact: Clackamas County Facilities Management, 503-557-6416 or [facilitiesmanagement@clackamas.us](mailto:facilitiesmanagement@clackamas.us)

**Section 3. PREMISES:**

The premises subject to this Lease are a portion of a building known as the Clackamas County Beaver Creek Health Clinic, located at 998 Library Court, Oregon City, Oregon (the "Pharmacy"), as described in Exhibit A, attached hereto and incorporated by this reference herein. The leased premises consist of 317 square feet of the Clinic and availability of five (5) adjoining parking spaces located on Clackamas County's Red Soils Campus, Assessor's Map T3S, R2E, Section 05C, Tax Lot 00812 (the "Premises"), as depicted on the map in Exhibit B, attached hereto and incorporated by this reference herein. Lessor will secure the leased space whenever there is an absence of staff or outside of operational hours.

**Section 4. BASE RENT:**

Monthly rent for the Premises is six-hundred thirty-one dollars and eighty-four cents (\$631.84). Rent includes utilities (electricity, natural gas, and water/sewer). It does not include costs for the following expenses that may be incurred with respect to the Premises: telephone service, fax line, computer service and data lines, hazardous waste disposal, janitorial services, and real property or personal property taxes, all of which are the responsibility of the Lessee.

The lease rate shall be fixed for each County fiscal year (July 1 – June 30), and begin at \$15 per square foot per year for the first year of the Lease. At the beginning of each new fiscal year after July 1<sup>st</sup>, and for the duration of the Lease, the rate shall increase by a percentage up to the corresponding change in the Portland Consumer Price Index for All Urban Consumers (CPI-U) for the previous fiscal year, but in no event less than three percent (3%). For example, if the percentage of increase in the Portland CIP-U is less than 2.7%, the rent will increase by 3% for the next year.

Rent not paid when due shall, after ten (10) days' written notice, bear simple interest at the rate of one-and-one-half percent (1.5%) per month until paid.

**Section 5. USE AND ENJOYMENT:**

Lessor covenants that Lessee shall be entitled to possession of the premises for operation of an on-site pharmacy. Lessee covenants not to use the premises for any other purpose without Lessor's prior written consent, or for any unlawful purpose. Lessee shall not allow the creation of any nuisance upon the premises nor create any nuisance upon the same.

**5.1. Restrictions on Use.** In connection with the use of the Premises, Lessee shall:

5.1.1 Comply with all applicable laws and regulations regarding Lessee's use of the Premises,

5.1.2 Refrain from any activity negatively impacting Lessor's ability to insure the Premises or would increase Lessor's existing insurance rate.

5.1.3 Refrain from any use that would be reasonably offensive to other Lessees or owners or users of neighboring properties or that would tend to create a nuisance or damage the reputation of the property.

**Section 6. POSSESSION:**

Lessee shall be entitled to full use and possession of the premises for the entire Lease term unless the Lease is terminated as provided herein.

**Section 7. PROPERTY TAXES:**

This Lease is a net lease. Except as expressly provided in this Lease, Lessee will be responsible for paying all costs and expenses relating to the Premises, including any real and personal property taxes, fees, utilities (other than those in Section 4, above), maintenance, repairs, interior and exterior structural repairs, interior and exterior nonstructural repairs, insurance, and all other costs and expenses relating to the Premises. Without notice or demand and without abatement, deduction, or setoff except as may be otherwise provided in this Lease, Lessee is required to pay, all sums, impositions, costs, and other payments that Lessee assumes or agrees to pay in any provision of this Lease. If Lessee fails to make a

payment, Lessor will have (in addition to all other rights and remedies) all the rights and remedies provided for in this Lease or by law for nonpayment of rent.

**7.1. Condition of Premises.** Lessor makes no representations or warranties, express or implied, as to the condition of the Premises or its fitness for any particular use by Lessee. Lessee takes the Premises as-is. If conditions pre-exist, or arise, which are determined to be violations of any state or federal OSHA rule or regulation, or any specialty code requirement, Lessor shall make every effort to achieve full compliance within thirty (30) days.

In the event Lessor does not correct any condition as required in items 1 and 2 above, Lessee has the right to terminate this Lease immediately, and shall have no further responsibility to Lessor under this Lease agreement.

**Section 8. INSPECTION:**

Lessor shall have the right personally and through Lessor's agents and workmen to enter into and upon the premises at any reasonable time to perform building maintenance, inspect the premises, and examine the condition thereof, so long as Lessor is accompanied by an Oregon State licensed pharmacist. In the event of an emergency, Lessor may enter the Premises so long as Lessor is accompanied by emergency personnel. Whether or not such inspection is made, the duty of Lessor to make repairs shall not mature until a reasonable time after Lessor has given Lessee written notice of the repairs that are required.

Lessor shall provide Lessee with access to the common areas and Premises twenty (24) hours per day, seven (7) days per week; however, Lessee shall only operate during normal business hours. Lessor shall provide Lessee with a key and/or security card to permit such access. Lessee shall be permitted to install any security system Lessee deems necessary at Lessee's sole cost and expense.

**Section 9. ALTERATIONS:**

Lessee will make no improvements or alterations on the premises of any kind without first obtaining written consent of Lessor. All alterations shall be made in a good and workmanlike manner, and in compliance with applicable laws and building codes. *Alterations* include the installation of computer and telecommunications wiring, cables, and conduit.

All alterations undertaken by Lessee shall be at Lessee's sole expense. Any alterations or improvements by Lessee that cannot reasonably be removed by Lessee without damaging the premises shall become the property of the Lessor upon termination of this Lease.

**Section 10. SIGNS:**

No signs, awnings, antennas, or other apparatus shall be painted on or attached to the building, nor any thing placed on the exterior of the premises without Lessor's written approval, which shall not be unreasonably withheld. All signs installed by Lessee shall comply with Lessor's standards for signs and all applicable codes and ordinances, and all signs and sign hardware shall be removed upon termination of this Lease, with the sign location restored to its former state unless Lessor elects to retain all or any portion thereof.

**Section 11. REPAIRS and MAINTENANCE:**

Lessee is responsible for any damage caused to the Premises as a result of Lessee's acts or omissions. All maintenance and repairs on or around the leased premises shall be performed by Lessor, subject to reimbursement by Lessee, and done in such a way as to interfere as little as reasonably possible with the use of the premises by the Lessee. Lessor's Facilities Management will be responsible for all repairs and maintenance issues that arise. It is the Lessee's responsibility to contact Facilities Management at the phone number of 503-557-6416 or via email to: [facilitiesmanagement@clackamas.us](mailto:facilitiesmanagement@clackamas.us), once they are aware or made aware of maintenance needs. Lessee shall have no right to an abatement of rent or any claim against Lessor for any inconvenience or disturbance resulting from Lessor's activities performed in conformance with the requirement of this provision.

Notwithstanding the above term, Lessee shall maintain premises in a neat condition, free of trash and debris, in good order and repair. Lessee shall not commit waste to the Premises.

Lessee shall promptly notify Lessor of any necessary repairs and shall, if necessary to protect the leased premises from imminent damage, prior to such notice, arrange for reasonably necessary emergency repairs. Payment for emergency repairs to the Premises shall be the responsibility of Lessor with reimbursement by Lessee.

**Section 12. LIEN CLAIMS AND LIABILITY:**

Except with respect to activities for which Lessor is responsible, Lessee shall pay as due all claims for work done on and for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens.

If Lessee fails to pay any such claims or to discharge any lien, Lessor may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of nine percent (9%) per annum from the date expended by Lessor and shall be payable on demand. Such action by Lessor shall not constitute a waiver of any right or remedy that Lessor may have on account of Lessee's default.

Lessee may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as Lessor's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Lessee shall, within ten (10) days after knowledge of the filing, secure the discharge of the lien or deposit with Lessor cash or sufficient corporate surety bond or other surety satisfactory to Lessor in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

**Section 13. PLACE OF PAYMENT AND NOTICE:**

Any notice required or permitted under this Lease shall be given when actually delivered or forty eight (48) hours after deposited in United States mail as certified mail return receipt requested addressed to the address set out below or to such other address as may be specified from time to time by either of the parties in writing.

Any notice to which Lessor shall be entitled under this Lease shall be delivered or sent to Clackamas County Facilities Management, 1710 S Red Soils Ct. #200, Oregon City, OR 97045. Notice for Lessee shall be mailed to Genoa Healthcare, Attn: General Counsel; 707 S. Grady Way, Suite 700, Renton, WA 98057. Place for notices may be changed by written notice from the party changing address.

**Section 14. INDEMNIFICATION:**

Lessee agrees to indemnify, defend, and hold harmless Lessor, and its officers, agents, and employees against any and all liability, loss, and costs arising from actions, suits, claims, or demands, except when due to Lessor's sole negligence, arising from or related to this Lease and the use of the Premises.

However, neither Lessee nor any attorney engaged by Lessee shall defend the claim in the name of Lessor, nor purport to act as legal representative of Lessor, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for Lessor, nor shall Lessee settle any claim on behalf of Lessor without the approval of the Clackamas County Counsel's Office. Lessor may, at its election and expense, assume its own defense and settlement.

Lessee shall be responsible for insuring its personal property and trade fixtures located on the premises and any alterations or tenant improvements it has made to the Premises. Neither Lessor nor Lessee shall be made liable to the other for any loss or damage caused by water damage, sprinkler leakage, or any of the risks that are or could be covered by a standard all risk insurance policy with an extended coverage endorsement. The parties expressly acknowledge Lessor's self-insurance coverage is sufficient to satisfy Lessor's obligation to maintain coverage for the aforementioned losses or damages.

Lessor shall have no liability to Lessee for any injury, loss, or damage caused by third parties, or by any condition of the Premises. Lessor shall have no liability for the failure or interruption of utilities.

**Section 15. LIABILITY INSURANCE:**

Lessee shall procure and maintain during the term of the Lease the following insurance at Lessee's cost: commercial general liability policy (occurrence version) in a responsible company with coverage for bodily injury and property damage liability, personal and advertising injury liability, and medical payment with a general aggregate limit of not less than two million dollars (\$2,000,000) and a per occurrence limit of not less than one million dollars (\$1,000,000). Such insurance shall cover all risks arising directly or indirectly out of Lessee's activities on or any condition of the Premises whether or not related to an occurrence caused or contributed to by Lessor's negligence. Such insurance shall protect Lessee against the claims of Lessor on account of the obligations assumed by Lessee under Indemnification, and shall name Lessor as an additional insured. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days' written notice to Lessor before any change or cancellation shall be furnished to Lessor before Lessee's occupancy of the Premises.

**Section 16. TOTAL OR PARTIAL DESTRUCTION:**

If the Premises are partly damaged and the cost of repair does not exceed 50% of the value of the structure before the damage, the damage shall be repaired by Lessee at Lessee's expense. Repairs shall be accomplished as soon as reasonably possible subject to interruptions and delays from labor disputes and matters beyond the control of Lessee and shall be performed in a good and workmanlike manner, and in compliance with applicable laws and building codes.

If the property is destroyed or damaged such that the cost of repair exceeds fifty percent of the value of the structure before the damage, either party may elect to terminate the Lease as of the date of the damage or destruction by notice given to the other in writing not more than ten (10) days following the date of damage. In such event all rights and obligations of the parties shall cease as of the date of



termination. If neither party elects to terminate, Lessor shall proceed to restore the property to substantially the same form as prior to the damage or destruction. Work shall be commenced as soon as reasonably possible and thereafter shall proceed without interruption except for work stoppages on account of labor disputes and matters beyond Lessor's reasonable control. In the event that the

In the event that the Premises becomes damaged to the extent that it cannot be used by Lessee for any period of time Lessor will in no way be responsible to find or pay for replacement facilities for Lessee. Rent shall not be abated during the repair of any damage to the extent the property is untenantable.

**Section 17. HAZARDOUS SUBSTANCES:**

Lessee shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed or, or otherwise released on or under the premises. Lessee may use or otherwise handle on the premises only those Hazardous Substances typically used in the prudent and safe operation of Lessee's permitted use of the premises. Lessee may store such Hazardous Substances on the premises only in quantities necessary to satisfy Lessee's reasonably anticipated needs. Lessee shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the premises. The term *Environmental Law* shall mean any federal, state, or local status, regulation, or ordinance, or any judicial or other governmental order pertaining to the protection of health, safety, or the environment. The term *Hazardous Substance* shall mean any hazardous, toxic, infectious, or radioactive substance, waste, or material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

**Section 18. EMINENT DOMAIN:**

**18.1. Partial Taking.**

If a portion of the Premises is condemned and Section 1 does not apply, the Lease shall continue on the following terms:

Lessor shall be entitled to all of the proceeds of condemnation, and Lessee shall have no claim against Lessor as a result of the condemnation.

18.1.1. Lessor shall proceed as soon as reasonably possible to make such repairs and alterations to the Premises as are necessary to restore the remaining Premises to a condition as comparable as reasonably practicable to that existing at the time of the condemnation.

18.1.2. After the date on which title vests in the condemning authority or an earlier date on which alterations or repairs are commenced by Lessor to restore the balance of the Premises in anticipation of taking, the rent shall be reduced in proportion to the reduction in value of the Premises as an economic unit on account of the partial taking.

18.1.3. If a portion of Lessor's property not included in the Premises is taken, and severance damages are awarded on account of the Premises, or an award is made for detriment to the Premises as a result of activity by a public body not involving a physical taking of any portion of the Premises, this shall be regarded as a partial condemnation to which Sections 18.1.1 and 18.1.2 apply, and the rent shall be reduced to the extent of reduction in rental value of the Premises as though a portion had been physically taken.

**18.2. Total Taking.**

If a condemning authority takes all of the Premises or a portion sufficient to render the remaining premises reasonably unsuitable for the use that Lessee was then making of the premises, the Lease shall terminate as of the date the title vests in the condemning authorities. Such termination shall have the same effect as a termination by Lessor under Section 9.2. Lessor shall be entitled to all of the proceeds of condemnation, and Lessee shall have no claim against Lessor as a result of the condemnation.

**18.3. Sale in Lieu of Condemnation.**

Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for the purposes of this Section 10 as a taking by condemnation.

**Section 19. ASSIGNMENT AND SUBLETTING:**

No part of the Premises may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the Premises be conferred on any third person by any other means, without the prior written consent of Lessor. This provision shall apply to all transfers by operation of law. If Lessee is a corporation, limited liability company, or partnership, this provision shall apply to any transfer of a majority voting interest in stock, membership or partnership interest of Lessee. No consent in one instance shall prevent the provision from applying to a subsequent instance. Lessor may withhold or condition such consent in its sole discretion.

**Section 20. WAIVER:**

Waiver by either party of strict performance of any provision of the Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

**Section 21. DEFAULT:**

The following shall be events of default:

**21.1. Default in Rent.**

Failure of Lessee to pay any rent or other charges within ten (10) days written notice after it is due.

**21.2. Default in Other Covenants.**

Lessee fails to comply with any term or condition or fulfill any obligation of the Lease (other than the payment of rent or other charges) within twenty (20) days after the date of written notice by Lessor specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the twenty (20) day period, this provision shall be complied with if Lessee begins correction of the default within the twenty (20) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

**21.3. Insolvency.**

Insolvency of Lessee: an assignment by Lessee for the benefit of creditors; the filing by Lessee of a voluntary petition in bankruptcy; an adjudication that Lessee is bankrupt or the appointment of a

receiver of the properties of Lessee; the filing of any involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Lessee to secure discharge of the attachment or release of the levy of execution within ten (10) days shall constitute a default. If Lessee consists of two or more individuals or business entities, the events of default specified in this Section 14.3 shall apply to each individual unless within ten (10) days after an event of default occurs, the remaining individuals produce evidence satisfactory to Lessor that they have unconditionally acquired the interest of the one causing the default. If the Lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Lessee under the Lease.

**21.4. Abandonment.**

Failure of Lessee for ten (10) days or more to occupy the Premises for one or more of the purposes permitted under this Lease, unless such failure is excused under other provisions of this Lease.

**Section 22. TERMINATION AND DEFAULT:**

**22.1. Termination other than for Default.** Lessor may terminate this Lease in the event the Lessor fails to receive expenditure authority sufficient to allow the Lessor, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited or the Lessor is prohibited from performing under this Lease from the planned funding source. In such an event, Lessee shall vacate the Premises within thirty (30) days of termination under this Subsection 22.1.

**22.2. Termination for Default.** In the event of a default the Lease may be terminated at the option of Lessor by written notice to Lessee. Whether or not the Lease is terminated by the election of Lessor or otherwise, Lessor shall be entitled to recover damages from Lessee for the default, and Lessor may reenter, take possession of the Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

**22.3. Reletting.** Following reentry or abandonment, Lessor may relet the Premises and in that connection may make any suitable alterations or refurbish the Premises, or both, or change the character or use of the Premises, but Lessor shall not be required to relet for any use or purpose other than that specified in the Lease or which Lessor may reasonably consider injurious to the Premises, or to any Lessee that Lessor may reasonably consider objectionable. Lessor may relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, on any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

**22.4. Damages.** In the event of termination or retaking of possession following default, Lessor shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:

22.4.1 The loss of rental from the date of default until a new Lessee is, or with the exercise of reasonable efforts could have been, secured and paying rent.

22.4.2 The reasonable costs of reentry and reletting including without limitation the cost of any cleanup, refurbishing, removal of Lessee's property and fixtures, costs incurred under Section 22.3, or any other expense occasioned by Lessee's default including any remodeling or repair costs, attorney fees, court costs, broker commissions, and advertising costs.

22.4.3 Any excess of the value of the rent and all of Lessee's other obligations under this Lease over the reasonable expected return from the Premises for the period commencing on the earlier of the date of trial or the date the Premises are relet, and continuing through the end of the term. The present value of future amounts will be computed using a discount rate equal to the average prime loan rate of three largest Oregon banks based on total deposits in effect on the date of trial.

**22.5. Right to Sue More than Once.** Lessor may sue periodically to recover damages during the period corresponding to the remainder of the lease term, and no action for damages shall bar a later action for damages subsequently accruing.

**22.6. Lessor's Right to Cure Non-payment Defaults.** If Lessee fails to perform any non-payment obligation under this Lease, Lessor shall have the option to correct the default so after ten (10) days' written notice to Lessee. All of Lessor's expenditures to correct the default shall be reimbursed by Lessee on demand with interest at the rate of nine percent (9%) per annum from the date of expenditure by Lessor. Such action by Lessor shall not waive any other remedies available to Lessor because of the default.

**22.7. Remedies Cumulative.** The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Lessor under applicable law.

**22.8 Compliance with Pharmacy Laws on Termination.** Notwithstanding anything set forth in this Lease to the contrary, Lessor shall not interfere with Lessee's compliance with applicable pharmacy laws, rules or regulations and Lessee's proper handling or disposition of its pharmaceutical products upon termination of this Lease. This provision shall be effective even upon a termination of this Lease by Lessor following the occurrence of a default. Lessee shall, to the maximum extent permitted by applicable law, comply with applicable pharmacy laws, rules or regulations in a manner consistent with the terms of this Lease.

## **Section 23. MUTUAL TERMINATION:**

This Lease can be terminated by either party with ninety (90) days' written notice.

The parties have executed a separate professional services contract, dated September 27, 2018, ("Professional Services Contract"). If the Professional Services Contract between the parties is terminated, then this Lease shall automatically terminate with the same effective date as the termination of the Professional Services Contract.

### **23.1. Surrender at Expiration**

**23.1.1. Condition of Premises.** On expiration of the lease term or earlier termination, Lessee shall surrender the Premises in first-class condition. Alterations constructed by Lessee with permission from Lessor shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purpose

for which the Premises are leased shall be expected but repairs for which Lessee is responsible shall be completed to the latest practical date before such surrender. Lessee's obligations under this section shall be subordinate to the provisions of Section 8 relating to destruction.

**23.1.2. Fixtures.** All fixtures placed on the Premises during the term shall remain the property of Lessee. Before expiration or other termination of the lease term, Lessee shall remove all furnishings, furniture, and trade fixtures. If Lessee fails to do so, this failure shall be an abandonment of the property, and Lessor may retain the property and all rights of Lessee with respect to it shall cease or, by notice in writing given to Lessee within twenty (20) days after removal was required, Lessor may elect to hold Lessee to its obligation of removal. If Lessor elects to require Lessee to remove, Lessor may effect a removal and place the property in public storage for Lessee's account. Lessee shall be liable to Lessor for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by Lessor.

**23.2.1. Holdover.**

23.2.1.a. If Lessee does not vacate the Premises at the time required, Lessor shall have the option to treat Lessee as a Lessee from month to month, subject to all of the provisions of this Lease except the provisions for term and renewal and at a rental rate equal to current base rent as charged per month, or to eject Lessee from the Premises and recover damages caused by wrongful holdover. Failure of Lessee to remove fixtures, furniture, furnishings, or trade fixtures that Lessee is required to remove under this Lease shall constitute a failure to vacate to which this section shall apply if the property not removed will substantially interfere with occupancy of the Premises by another Lessee or with occupancy by Lessor for any purpose including preparation for a new Lessee.

23.2.1.b. If a month-to-month tenancy results from a holdover by Lessee under this Section 15.3, the tenancy shall be terminable at the end of any monthly rental period on written notice from Lessor given not less than ten (10) days before the termination date which shall be specified in the notice. Lessee waives any notice that would otherwise be provided by law with respect to a month-to-month tenancy.

**Section 24. NONMERGER:**

There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the leasehold estate created by this Lease, or any interest in this Lease, may be held, directly or indirectly, by or for the account of any person who owns the fee estate in the Premises or any interest in such fee estate. No merger will occur unless and until all persons having an interest in the fee estate in the Premises and all persons (including all Permitted Leasehold Mortgagees) having an interest in this Lease, or in the leasehold estate created by this Lease, join in a written instrument effecting the merger and duly record the same.

**Section 25. MISCELLANEOUS**

**25.1. Non-waiver.** Waiver by either party of strict performance of any provision of this Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision. The acceptance of a late payment of rent shall not waive the failure

to perform an obligation under this Lease except for the failure to pay the rent so accepted when due and shall not affect Lessor's remedies for failure to perform such other obligations.

**25.2. No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses

**25.3. Notices.** Any notice required or permitted under this Lease shall be given when actually delivered or forty eight (48) hours after deposited in United States mail as certified mail return receipt requested addressed to the address set out above or to such other address as may be specified from time to time by either of the parties in writing.

**25.4. Succession.** Subject to the above-stated limitations on transfer of Lessee's interest, this Lease shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

**25.5. Recordation.** This Lease shall be recorded without the written consent of Lessee.

**25.6. Entry for Inspection.** Lessor shall have the right to enter on the Premises at any time to determine Lessee's compliance with this Lease; to make necessary repairs to the building or to the Premises; to show the Premises to any prospective Lessee or purchaser; to conduct surveys, inspections, tests and analysis and in addition shall have the right, at any time during the last two months of the term of this Lease, to place and maintain on the Premises notices for leasing or selling of the Premises.

**25.7. Proration of Rent.** In the event of commencement or termination of this Lease at a time other than the beginning or end of one of the specified rental periods, then the rent shall be prorated as of the date of commencement or termination and in the event of termination for reasons other than default, all prepaid rent shall be refunded to Lessee or paid on its account.

**25.8. Time of Essence.** Time is of the essence of the performance of each of Lessee's obligations under this Lease.

**25.9. Non-Waiver of Governmental Rights.** Subject to the terms and conditions of this Lease, Lessor is specifically not obligating itself, or any other department of Clackamas County with respect to any discretionary action relating to the Lease or the Premises including but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

**25.10. Relationship.** Nothing contained in this Lease will create a joint venture or partnership, establish a relationship of principal and agent, establish a relationship of employer and employee, or any other relationship of a similar nature between the Lessee and Lessor.

**25.11. Integration.** Except as otherwise set forth herein, this Lease constitutes the entire agreement between the parties on the subject matter of this Lease. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Lease.

**25.12. Survival.** All provisions in Sections 7, 9, 12, 14, 15, 16, 17, 20, 21, 22, and 25 shall survive the termination of this Lease, together with all other rights and obligations herein which by their context are intended to survive.

**25.13. Further Assurances.** The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein.

**25.14. Force Majeure.** Notwithstanding any other provision herein, no party will be liable for breach or default of this Lease due to delay in performing its obligations under this Lease to the extent that delay is caused by insurrection, war, riot, explosion, nuclear incident, strikes, labor disputes, volcanoes, fire, flood, earthquake, weather, acts of God, epidemic, acts of any federal, state or local government or agency, or any other event beyond the reasonable control of the affected party.

**25.15. Applicable Law and Venue.** This Lease shall be construed, applied and enforced in accordance with the laws of the State of Oregon with giving effect to the conflict of laws provisions thereof. Any claim between Lessor and Lessee that arises from or relates to this Lease shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by Lessor of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Lessee, by execution of this Lease, hereby consents to the in personam jurisdiction of the courts referenced in this section.

**25.16. Mediation Option.** The parties acknowledge that mediation may help the parties to settle their dispute. Therefore, in case of dispute under this Lease, either party may propose mediation whenever appropriate by any mediation process or mediator as the parties may mutually agree upon (each in their sole discretion).

**25.17. Changes in Writing.** This Lease and any of its terms may only be changed, waived, discharged or terminated by written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

**25.18. Counterparts.** This Lease may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Lease.

**25.19. Invalidity of Provisions.** In the event any provision of this Lease is declared invalid or is unenforceable for any reason, such provision shall be deleted from such document and shall not invalidate any other provision contained in the document.

**25.20. Neutral Construction.** This Lease has been negotiated with each party having the opportunity to consult with legal counsel and shall not be construed against either party.

**25.21. Captions.** The captions of the section and subsections are used solely for convenience and are not intended to alter or confine the provisions of this Lease.

**25.22. Remedies.** In the event of a breach of this agreement, the parties shall have all remedies available at law or equity.

**25.23. Debt Limitation.** This Lease is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being

appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

**Section 26. ENTIRE AGREEMENT:**

This Lease contains the entire agreement of Lessor and Lessee, and all prior written and oral agreements and representations between the parties are void. Lessor and Lessee agree that there are no implied covenants or other agreements between the parties except as expressly set forth in this Lease. Neither Lessor nor Lessee is relying on any representations of the other party except those expressly set forth herein.

*The rest of this page is intentionally left blank. Signature page below.*



**WARRANT OF AUTHORITY:**

The undersigned, \_\_\_\_\_, warrants and represents that they have full authority to sign on behalf Lessee.

**LESSOR**

CLACKAMAS COUNTY BOARD  
OF  
COUNTY COMMISSIONERS by:

\_\_\_\_\_  
Jim Bernard, Chair

Approved as to form:

\_\_\_\_\_  
Office of County Counsel

\_\_\_\_\_  
Date

**State of Oregon**  
**County of Clackamas**

This record was acknowledged before me  
on  
(date) \_\_\_\_\_ by \_\_\_\_\_  
as the Chair of Clackamas County.

Stamp (if required):

Notarial Officer  
Signature: \_\_\_\_\_

Title of Office: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**LESSEE**  
GENOA, HEALTHCARE, LLC  
707 S. GRADY WAY, SUITE 700  
RENTON, WA 98057

  
\_\_\_\_\_  
Authorized Signature

Mark J Peterson  
\_\_\_\_\_  
Printed Name

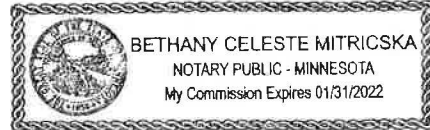
January 13, 2020  
\_\_\_\_\_  
Date

27-0556097  
\_\_\_\_\_  
Federal ID #

**State of Minnesota**  
**County of Dakota**

This record was acknowledged before me  
on January 13<sup>th</sup> 2020  
(date) 13<sup>th</sup> 2020 by Mark Peterson  
as the Chief Executive Officer

Stamp (if required):



Notarial Officer:  
Signature: Bethany C. Mitricska

Title of Office: notary public

My Commission Expires: 1/31/2022

**EXHIBIT A**  
**DESCRIPTION OF PROPERTY**

**DESCRIPTION OF PROPERTY:**

The leased premises consists of 317 square feet of the Clinic and availability of five (5) adjoining parking spaces located at 998 Library Court, Oregon City, OR. Assessor's Map T3S, R2E, Section 05C, Tax Lot 00812 (the "Premises"). Google Earth Map of Premises is Exhibit B.

**EXHIBIT B**  
**GOOGLE EARTH MAP OF PROPERTY**

