

## ***REAL ESTATE LEASE***

This Lease Agreement (this "Lease") is executed this date, by and between Evergreen Foundation ("Landlord"), and County of Jackson, a body politic and a subdivision of the State of North Carolina ("Tenant") for temporary clinical and operational functions while the Tenant's main health department facility is under construction. The parties agree as follows:

**PREMISES.** Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant the entire building located at **154 Medical Park Loop, Sylva, NC 28779.**

**TERM.** The lease term will begin on January 1, 2019 and will terminate on June 30, 2020. These dates may be adjusted by mutual agreement of the parties on a month-to-month basis, based on changes in the Tenant's construction schedule at its primary facility.

**LEASE PAYMENTS.** Tenant shall pay to Landlord monthly installments of \$10,000 payable in advance on the first day of each month. Lease payments shall be made to the Landlord at Evergreen Foundation, 28A Oak Street Waynesville, NC 28786 which address may be changed from time to time by the Landlord.

**SECURITY DEPOSIT.** N/A

**POSSESSION.** Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

**USE OF PREMISES.** Tenant may only use the premises to provide professional Health Department Services currently provided by the Jackson County Health Department. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence. When the facility is closed and staff is not available, the front door is to remain locked at all times.

**EQUIPMENT AND FURNISHINGS.** N/A

**ALTERATIONS.** Any alterations, additions, or improvements permitted herein shall be made at the expense of the Tenant except for the painting of rooms and hallways which have not been painted in the past 4 years. The Tenant agrees that it will make no alterations, additions, or improvements to the premises without the express, written consent of the Landlord. Landlord hereby acknowledges and gives written permission for Tenant to make alterations for six clinical spaces to be located above the basement area of the building. Said alterations to include plumbing, electrical and flooring suitable for

clinic space. Tenant will do its best to make sure that sinks added for this purpose can be easily removed at the termination of this Lease if so requested by Landlord. All alterations, additions, or improvements made by or for the Tenant at the Tenant's expense, except movable unattached fixtures, shall remain upon and be surrendered with the premises as part thereof at the expiration or earlier termination of this Lease.

**PARKING.** Tenant shall be entitled to use the common parking area for the parking of the Tenant and the Tenant's customers'/guests' motor vehicle(s).

**PROPERTY INSURANCE.** Landlord and Tenant shall each maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. **Landlord shall be named as an additional insured in such policies.** Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

#### **MAINTENANCE.**

Landlord's obligations for maintenance shall include:

- the roof, outside walls, and other structural parts of the building
- pavement of the parking lot, driveways and sidewalks
- exterior painting
- major septic tank, sewer, water pipes, well and other matters related to plumbing
- the electrical wiring
- maintenance of heat, ventilation and air conditioning systems

Tenant's obligations for maintenance shall include:

- Maintenance of leased space in a clean and tidy manner
- Day to Day maintenance and repair associated with maintaining the building, including but not limited to, providing and replacing burned out light bulbs, trash and garbage removal, cleaning of carpets, cleaning of windows, snow and ice removal from sidewalks and driveways, plumbing costs associated with stopped up drains and toilets
- Janitorial support for the building
- Maintain lawn, trees and grounds in a tidy manner
- All other items of maintenance not specifically delegated to Landlord under this Lease.

**UTILITIES AND SERVICES.** Tenant shall be responsible for all utilities incurred in connection with the Premises. This shall include, but not be limited to: electric, water, sewer, fuel oil, gas, telephone. Tenant agrees to pay these amounts timely and directly to each utility company as appropriate.

**ENVIRONMENTAL USE OF FACILITY.** Tenants shall insure a healthy and safe environment. All parts of the building shall be both tobacco and drug free. No weapons shall be allowed on the premises at any time. No perishable food items can be stored on the premises. No pets are allowed on the premises.

**DEFAULTS.** Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 10 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

**LATE PAYMENTS.** For any payment that is not paid within 10 days after its due date, Tenant shall pay a late fee of \$50.00.

**CUMULATIVE RIGHTS.** The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

**NON-SUFFICIENT FUNDS.** Tenant shall be charged \$25.00 for each check that is returned to Landlord for lack of sufficient funds.

**ACCESS BY LANDLORD TO PREMISES.** Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

**INDEMNITY REGARDING USE OF PREMISES.** To the extent permitted by law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

**DANGEROUS MATERIALS.** Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially

increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

**COMPLIANCE WITH REGULATIONS.** Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

**ASSIGNABILITY/SUBLETTING.** Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), nor assign, mortgage or pledge this Lease without written consent of the Landlord.

**NOTICE.** Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

**LANDLORD:**

Evergreen Foundation  
28A Oak Street  
Waynesville, NC 28786

**TENANT:**

County of Jackson  
c/o County Manager  
401 Grindstaff Cove Road, Suite A227  
Sylva, NC 28779

Such addresses may be changed from time to time by either party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

**GOVERNING LAW.** This Lease shall be construed in accordance with the laws of the State of North Carolina.

**ENTIRE AGREEMENT/AMENDMENT.** This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and

enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**WAIVER.** The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

**BINDING EFFECT.** The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

**LANDLORD:**  
**Evergreen Foundation**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
**Denise Coleman**  
**Executive Director**

**TENANT:**  
**County of Jackson**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
**Brian T. McMahan, Chairman, Jackson County Board of Commissioners**

Attest:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
**Angela M. Winchester, Clerk to the Board of Commissioners**