

**FOURTH AMENDMENT AND RELOCATION FOR
MASTER LEASE AGREEMENT FOR FACILITIES**

This **FOURTH AMENDMENT AND RELOCATION FOR MASTER LEASE AGREEMENT FOR FACILITIES** (this "**Fourth Amendment**") made this _____ day of _____, 2021, by and between **KDI ATLANTA MALL, LLC**, a Georgia limited liability company, as successor in interest to Greenbriar Mall Limited Partnership (hereinafter referred to as "**Landlord**"), and **FULTON COUNTY**, a political sub-division of the State of Georgia (hereinafter referred to as "**Tenant**").

W I T N E S S E T H:

WHEREAS, Landlord's predecessor in interest and Tenant entered into that certain Master Lease Agreement for Facilities dated September 28, 2005, as amended by (i) that certain First Amendment to Master Lease Agreement for Facilities dated December 21, 2016, (ii) that certain Second Amendment to Master Lease Agreement for Facilities dated December 19, 2018, and (iii) that certain Third Amendment to Master Lease Agreement for Facilities dated December 8, 2020 (collectively the "**Lease**"), copies of each are set forth in **Exhibit A** attached hereto and incorporated herein by reference for all purposes, wherein Landlord leased to Tenant and Tenant leased from Landlord the "**Premises**" as more particularly described in the Lease, consisting of approximately 4,315 square feet of space, commonly known as Store #X106/X108 (the "**Original Premises**") in the Greenbriar Mall at 2841 Greenbriar Parkway, Atlanta, Georgia; and

WHEREAS, the Landlord is the current owner of the Building and is the successor Landlord under the Lease; and

WHEREAS, Tenant and Landlord desire to relocate Tenant from the Original Premises to the portion of the Shopping Center commonly known as Store #X124 A & C, consisting of approximately 10,740 square feet which is more particularly depicted on **Exhibit B** attached hereto and incorporated herein by reference (the "**Relocation Premises**"); and

WHEREAS, Landlord and Tenant desire to further amend the Lease as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Relocation of Premises**. Effective as of the Relocation Delivery Date (defined hereinafter), Landlord hereby leases and demise to Tenant the Relocation Premises, and Tenant hereby leases the same from Landlord, for Tenant's Permitted Use as set forth in Paragraph 10 of the Lease, subject to the terms and conditions contained in the Lease as modified herein, and further subject to all liens, encumbrances, easements, restrictions, zoning laws and governmental or other regulations affecting the Shopping Center.

- a. Landlord, at Landlord's sole cost and expense, shall build out the Relocation Premises in accordance with the Approved Plans attached hereto as **Exhibit C**, and otherwise substantially in the same condition of the Original Premises as of the Effective Date (except as expressly provided otherwise herein) ("**Landlord's Work**"). The "**Relocation Delivery Date**", as used herein, shall be the date upon which Landlord notifies Tenant in writing that Landlord's Work is substantially complete. All work other than Landlord's Work, if any, shall be performed by Tenant at its own cost and expense. Landlord shall not be responsible for any trade equipment, furnishings and fixtures and exterior signs and any other equipment necessary for the proper operation of Tenant's business. All work to be performed by Tenant and Landlord shall be performed in a good and workmanlike manner in conformity with the Lease and with all governmental codes, statues, rules and regulations and by a duly licensed and insured contractor and in accordance with the Approved Plans to a finished condition ready for the conduct of Tenant's business therein.
- b. Tenant shall occupy the Relocation Premises and open for business therein for Tenant's Permitted Use upon the Landlord obtaining a certificate of occupancy for the new premises that will allow them to move on or before Relocation Date defined below. Notwithstanding anything contained herein or in the Lease to the contrary, Tenant shall be obligated to pay Rent and all charges due under the Lease in connection with the Original Premises up to the Relocation Date. The "**Relocation Date**" as such term is used herein shall mean the earlier of (i) the date Tenant opens for business to the general public within the Relocation Premises, or (ii) the date which is sixty (60) days after the Relocation Delivery Date provided that the certificate of occupancy has been achieved.
- c. Prior to the Relocation Date, but no earlier than the Relocation Delivery Date, Tenant, at Tenant's cost, shall relocate Tenant's personal property, trade fixtures, and inventory from the Original Premises to the Relocation Premises. As of the Relocation Date, Tenant shall vacate and leave the Original Premises in broom clean condition with all HVAC, mechanical, ductwork, conduits and utilities and remaining fixtures in place and operational. After the Relocation Date, Tenant shall no longer have any rights or interest whatsoever in or to the Original Premises. As of the Relocation Date, Tenant shall surrender all keys (including, without limitation, door and mail keys) for the Original Premises to Landlord. Tenant acknowledges that the timely vacation and surrender of the Original Premises is essential to Landlord's intended use of the Original Premises and that Landlord will suffer damages in the event that Tenant fails to vacate and surrender the Original Premises by the Relocation Date. Notwithstanding anything to the contrary contained herein or in the Lease, in the event that Tenant fails to timely vacate and surrender the Original Premises in accordance herewith, then a) Tenant shall be deemed a tenant at sufferance, and not a tenant at will, and shall be subject to immediate eviction and dispossession and b) Tenant shall pay Landlord rent

on the Original Premises at 150% the rate set forth in the Lease and also on the Relocation Premises as set forth herein, together with the amount of any actual or consequential damages suffered or incurred by Landlord on account of such hold over by Tenant. The inclusion of the preceding sentence shall not be construed as Landlord's consent to Tenant holding over in the Original Premises, it being acknowledged and agreed that Landlord does not consent to any holding over by Tenant. Any personal property that is not removed from the Original Premises by the Relocation Date (the "**Abandoned Property**") shall be conclusively deemed abandoned and Landlord may, without liability or compensation to Tenant or any third party, use, sell or otherwise dispose of such Abandoned Property in Landlord's sole discretion.

- d. Subject to the terms of this Amendment, a) from the date of this Amendment until the Relocation Date, any and all references to the Premises, Demised Premises or Leased Premises contained in the Lease, as modified herein, shall mean and refer only to the Original Premises for purposes of the Lease including any calculations of Minimum Rent or any Additional Rent charges; and b) from the Relocation Date and all times thereafter during the term of this Lease any and all references to the Premises, Demised Premises or Leased Premises contained in the Lease, as modified herein, shall mean and refer only to the Relocation Premises (and shall no longer refer to the Original Premises) for purposes of the Lease including any calculations of Minimum Rent or any Additional Rent. Notwithstanding anything to the contrary contained herein, for the period commencing with the Relocation Delivery Date and ending on the Relocation Date, Tenant shall be responsible for Tenant's obligations with respect to both the Relocation Premises and the Original Premises, as if they both were the Premises under the Lease with respect to Tenant's obligations under Paragraphs 10, 11, 12, 18, 21, 24, 27, 41, 42, and 43 of the Master Lease. As attached herein
- e. Except as expressly provided otherwise herein, including the Approved Plans, the Relocation Premises shall be delivered with no work to be done by Landlord other than as set forth on **Exhibit C** hereto.
- f. Tenant has not sublet any portion of the Original Premises or assigned any of its rights under the Lease.
- g. Landlord's plans and specifications as approved by Tenant shall be referred to herein as the "**Approved Plans**" and are attached hereto as **Exhibit C**, and by this reference incorporated herein.
- h. Notwithstanding anything to the contrary contained herein or in other exhibits to this Amendment, Tenant, at Tenant's sole cost, shall have the right to fabricate, permit, and install Tenant's storefront, subject to compliance with all applicable laws, regulations,

codes and Landlord's prior approval, such approval not to be unreasonably withheld, conditioned or delayed ("**Approved Signage**"). Landlord shall not be responsible for the cost, installation or maintenance of the Approved Signage or any other signage, except as otherwise expressly set forth in the Approved Plans.

2. **Extended Term.** The current lease is hereby extended from the first day of the first full month immediately following the Relocation Date for an initial term for the remaining months of the then calendar year. After the expiration of the Initial Lease Term, this lease shall automatically renew for ten (10) one-year terms from January 1, 2022 through December 31, 2031, unless earlier terminated by operation of law (the "**Fourth Extended Term**"). During the initial lease term and the Fourth Extended Term, Minimum Rent shall be at the rate of **\$209,430.00** per annum payable in equal monthly installments of **\$17,452.50** from the Relocation Date through to December 31st, 2026, and **\$230,373.00** per annum payable in equal monthly installments of **\$19,197.75** from January 1st 2027 through December 31st 2031, the last day of the Fourth Extended Term, subject to the remaining terms and conditions of the Lease.
3. **Lease Extension Based on Appropriation of Funds.** Pursuant to O.C.G.A §36-60-13, Landlord acknowledges that any extended term shall be contingent upon the availability and appropriation of funds by the Fulton County Board of Commissioners. If such funds are not available and appropriated for any Extended Term, Tenant shall provide a "**Notice of Lease Termination**". In no event shall the Lease continue beyond the last day of the Fourth Extended Term, unless extended by mutual written agreement of both parties. In the event Tenant terminates the Lease as provided above ("**Early Termination**") then, in addition to all other obligations that accrue prior to such Early Termination, Tenant shall, within 30 days of such Early Termination, make reimbursement to Landlord for improvements made to Tenant's leased space pursuant to the schedule set forth on **Exhibit D** attached hereto and incorporated herein by reference.
4. **Utilities.** During the remainder of the Term, Tenant shall continue to pay for all utilities consumed at the Premises in accordance with the terms of the Lease.
5. **Notice Addresses.** Section 32 of the Lease is hereby amended to reflect that the Landlord's notice addresses are as follows:

Address for Payment of Rent:

KDI Atlanta Mall, LLC
c/o Hendon Properties, LLC
3445 Peachtree Road, N.E.
Suite 465
Atlanta, Georgia 30326

Landlord's Notice Address:

e2133431-8499-411d-a4ee-98b90ab2b872

KDI Atlanta Mall, LLC
c/o Hendon Properties, LLC
3445 Peachtree Road, N.E.
Suite 465
Atlanta, Georgia 30326
Attn: J. Charles Hendon, Jr.

AND

KDI Atlanta Mall, LLC
Attn: Property Manager
Greenbriar Mall
2841 Greenbriar Parkway, S.W.
Atlanta, Georgia 30331

Landlord's Notice Copy Address:

Hartman Simons & Wood LLP
6400 Powers Ferry Road, N.W.
Suite 400
Atlanta, Georgia 30339
Attn: Robert D. Simons, Esq.

Tenant's Notice Copy Address:

Fulton County
Attention: Director of Real Estate & Asset Management
141 Pryor Street
Suite 6001
Atlanta, Georgia 30303

With a Copy to:
Fulton County
Attention: County Attorney
141 Pryor Street
Suite 4038
Atlanta, Georgia 30303

With a Copy to:
Fulton County
Attention: County Manager
141 Pryor Street
10th Floor

Atlanta, Georgia 30303

6. **Relocation.** Landlord and Tenant acknowledge that Landlord continues to have the right to relocate the Premises as set forth in Paragraph 36 of the Lease provided it is to the equal size and finished as the Tenant has or will have in place.
7. **Miscellaneous.** Landlord is not obligated to pay Tenant any relocation or construction expenses or allowances, except as expressly provided in this Amendment. Except as modified and amended herein, the Lease has not been modified or amended, is hereby ratified and confirmed by Landlord and Tenant and is hereby declared by Landlord and Tenant to be in full force and effect. This Fourth Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which, collectively, shall be one and the same instrument. Electronic or facsimile signatures shall be deemed to be originals thereof for all purposes hereunder. This Fourth Amendment is binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

[Signatures on following page]

IN WITNESS WHEREOF, this Amendment has been executed as a sealed instrument as of this ____day November and year first above written.

“TENANT”

Fulton County, a political subdivision of the State of Georgia

By: _____
Robert L. Pitts, Chairman
Fulton County Board of Commissioners

ATTEST:

Tonya Grier, Clerk to the Commission

Affix Seal

“LANDLORD”

KDI ATLANTA MALL, LLC, a Georgia limited liability company

By: KDI ATLANTA MALL HOLDING COMPANY, LLC, its Sole Manager

By: HENDON GREENBRIAR MALL MANAGER, LLC, its Sole Manager

BY: _____
J. Charles Hendon, Jr.
Sole Member

Date signed: _____

Affix Seal

APPROVED AS TO FORM for Fulton County:

This ____ day of _____, 2021

Fulton County Attorney’s Office

EXHIBIT A

LEASE DOCUMENTS

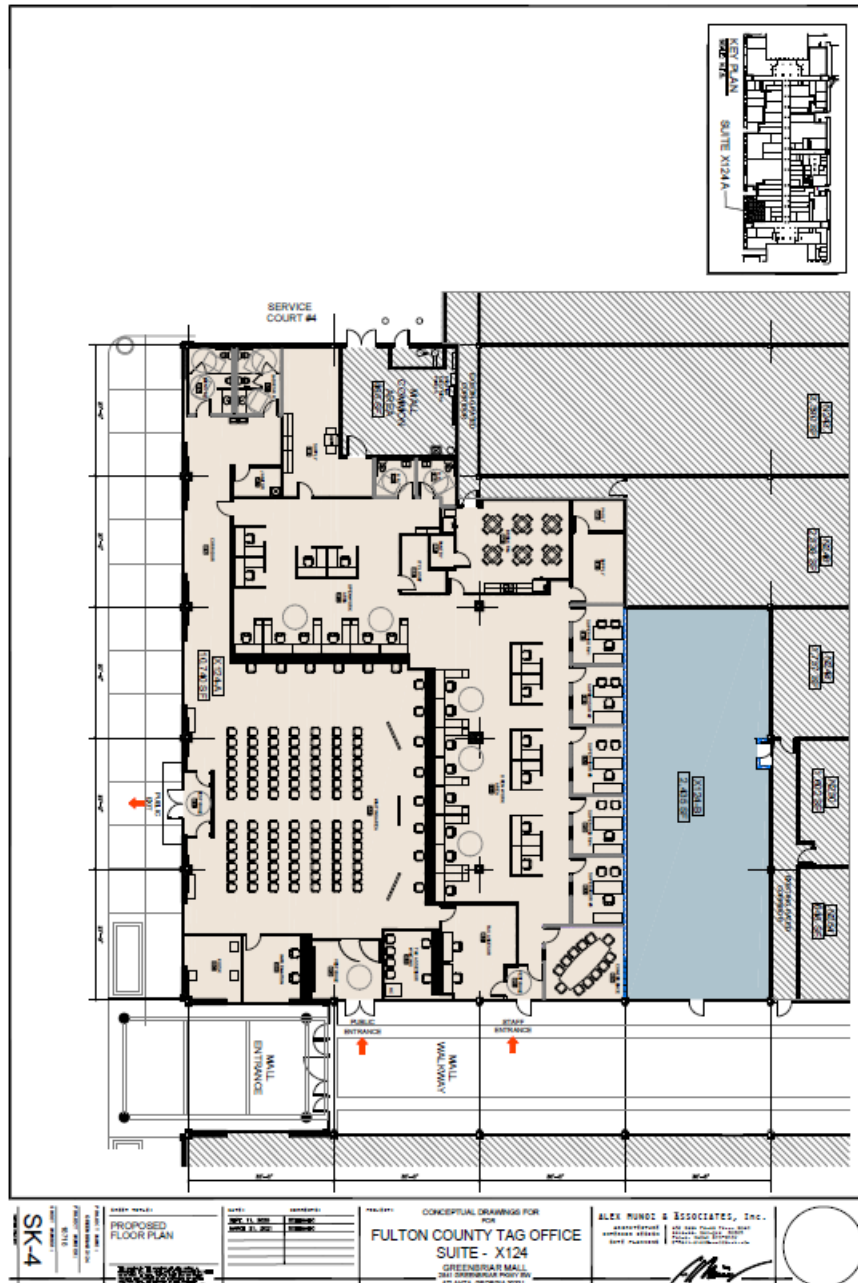
EXHIBIT B

RELOCATION PREMISES

UPDATED EXHIBIT TO BE INSERTED

EXHIBIT B-1

RELOCATION PREMISES DETAIL



e2133431-8499-411d-a4ee-98b90ab2b872

EXHIBIT D

AMORTIZATION AND REPAYMENT SCHEDULE

Landlord shall, at its own expense, construct and install the improvements to interior of the Relocation Premises pursuant to plans and specifications to be mutually agreed upon between Landlord and Tenant. The amount expended by Landlord, including all hard and soft costs, on such improvements is hereinafter referred to as “**Construction Expense.**”

In the event Tenant terminates the Lease pursuant to Section 3 above after any of the first five (5) calendar years of the Extended Term, Tenant shall pay to Landlord the then unamortized Construction Expenses as follows:

<u>Year of Termination</u>	<u>Unamortized Construction Expense Reimbursement</u>
1	\$1,475,000.00
2	\$1,180,000.00
3	\$885,000.00
4	\$590,000.00
5	\$295,000.00