

1 A RESOLUTION APPROVING A FIRST AMENDMENT TO LEASE AGREEMENT
2 BETWEEN WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE, FOR
3 THE BENEFIT OF HOLDERS OF J.P. MORGAN CHASE COMMERCIAL MORTGAGE
4 SECURITIES TRUST 2018-PTC, COMMERCIAL MORTGAGE PASS-THROUGH
5 CERTIFICATES, SERIES 2018-PTC AND THE FUTURE ADVANCE LENDER
6 ("LANDLORD") AND FULTON COUNTY, GEORGIA ("TENANT") FOR THE
7 PURPOSE OF EXTENDING THE LEASE TERM FOR OFFICE SPACE FOR THE
8 OPERATIONS OF THE OFFICE OF THE FULTON COUNTY TAX ASSESSOR AT 235
9 PEACHTREE STREET, ATLANTA, GEORGIA; TO AUTHORIZE THE CHAIRMAN TO
10 APPROVE THE FIRST AMENDMENT TO LEASE AGREEMENT AND RELATED
11 DOCUMENTS; TO AUTHORIZE THE COUNTY ATTORNEY TO APPROVE THE FIRST
12 AMENDMENT TO LEASE AGREEMENT AND RELATED DOCUMENTS AS TO FORM
13 AND TO MAKE ANY MODIFICATIONS THERETO IN ORDER TO PROTECT THE
14 INTERESTS OF FULTON COUNTY PRIOR TO EXECUTION; AND FOR OTHER
15 PURPOSES

16 **WHEREAS**, the Office of the Fulton County Tax Assessor is responsible for
17 confirming the fair market values for real and personal property Fulton County; and

18 **WHEREAS**, the Fulton County Board of Commissioners approved a Lease
19 Agreement (the "Lease") for the operations of the Fulton County Tax Commissioners at
20 235 Peachtree Street, Atlanta, Georgia with ACP Peachtree Center LLC on December
21 17, 2014 as Agenda Item #14-1123; and

22 **WHEREAS**, on September 6, 2022 a Deed Under the Power of Sale was recorded
23 in the real estate records of Fulton County and pursuant to the terms of the Lease
24 Wilmington Trust, National Association, as Trustee, for the benefit of Holders of J.P.
25 Morgan Chase Commercial Mortgage Securities Trust 2018-PTC, Commercial Mortgage
26 Pass-Through Certificates, Series 2018-PTC and the Future Advance Lender became
27 the Landlord under the Lease; and

28 **WHEREAS**, the Office of the Fulton County Tax Assessor desires to remain within
29 the current leased space at 235 Peachtree Street, Atlanta, Georgia consisting of

1 approximately 37,853 square feet for the purpose of providing office space for the
2 operations of the Tax Assessor and his staff; and

3 **WHEREAS**, it is the mutual desire of Fulton County and Wilmington Trust, National
4 Association, as Trustee, for the benefit of Holders of J.P. Morgan Chase Commercial
5 Mortgage Securities Trust 2018-PTC, Commercial Mortgage Pass-Through Certificates,
6 Series 2018-PTC and the Future Advance Lender to enter into a First Amendment to
7 Lease Agreement for the purpose of extending the current lease term and to formalize
8 the terms of the continued occupancy for the Office of the Fulton County Tax Assessor;
9 and

10 **WHEREAS**, O.C.G.A. § 36-60-13 authorizes Fulton County to enter into multiyear
11 lease, purchase, or lease-purchase contracts of all kinds for the acquisition of goods,
12 materials, real and personal property, services, and supplies under certain
13 circumstances.

14 **NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners hereby
15 approves the First Amendment to Lease Agreement with Wilmington Trust, National
16 Association, as Trustee, for the benefit of Holders of J.P. Morgan Chase Commercial
17 Mortgage Securities Trust 2018-PTC, Commercial Mortgage Pass-Through Certificates,
18 Series 2018-PTC and the Future Advance Lender in substantially the form attached
19 hereto as Exhibit "A."

20 **BE IT FURTHER RESOLVED**, that the Chairman of the Board of Commissioners
21 (or Vice-Chairman, in the Chairman's absence) is hereby authorized to execute the First
22 Amendment to Lease Agreement between Fulton County and Wilmington Trust, National
23 Association, as Trustee, for the benefit of Holders of J.P. Morgan Chase Commercial

1 Mortgage Securities Trust 2018-PTC, Commercial Mortgage Pass-Through Certificates,
2 Series 2018-PTC and the Future Advance Lender.

3 **BE IT FURTHER RESOLVED**, that the County Attorney is hereby authorized to
4 approve the First Amendment to Lease Agreement as to form and to make such other or
5 additional modifications as are necessary to protect the County's interests prior to
6 execution by the Chairman.

7 **BE IT FURTHER RESOLVED**, that this Resolution shall become effective upon its
8 adoption, and that all resolutions and parts of resolutions in conflict with this Resolution
9 are hereby repealed to the extent of the conflict.

10 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
11 Georgia, this 16th day of August, 2023.

14 FULTON COUNTY BOARD OF
15 COMMISSIONERS

17 
18 _____
19 Robert L. Pitts, Chairman

24 ATTEST:

25 
26 _____
27 Tonya R. Grier, Clerk to the Commission



30 APPROVED AS TO FORM:

31 
32 _____
33 Y. Soe Jo, County Attorney
34

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (hereinafter referred to as this "First Amendment") is entered into as of the First Amendment Date set forth below Landlord's signature (such date being hereinafter referred to as the "First Amendment Date") by and between **WILMINGTON TRUST, NATIONAL ASSOCIATION**, as Trustee, for the Benefit of Holders of J.P. Morgan Chase Commercial Mortgage Securities Trust 2018-PTC, Commercial Mortgage Pass-Through Certificates, Series 2018-PTC and the Future Advance Lender (hereinafter referred to as "Landlord"), and **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia (hereinafter referred to as "Tenant").

W I T N E S S E T H:

WHEREAS, Tenant and ACP Peachtree Center LLC, a Delaware limited liability company (hereinafter referred to as "ACP"), entered into that certain Lease Agreement, dated as of January 6, 2015 (hereinafter referred to as the "Lease"), pursuant to which Tenant leases certain premises known as Suites 1100, 1200, and 1400 on the eleventh (11th), twelfth (12th), and fourteenth (14th) floors of the building presently known as North Tower, located at 235 Peachtree Street, NW, Atlanta, Georgia 30303 (hereinafter referred to as the "Original Premises"), which premises are more particularly described in the Lease; and

WHEREAS, Landlord is the successor-in-interest to ACP, and has acquired all of ACP's right, title and interest in, to and under the Lease pursuant to that certain Deed Under Power of Sale recorded in Deed Book 66109, Page 236 *et seq.*, Fulton County, Georgia real estate records; and

WHEREAS, pursuant to its terms, the Lease is set to expire on December 31, 2023; and

WHEREAS, Landlord and Tenant desire to amend the Lease to extend further the Lease Term and to provide for certain other related matters, as are more particularly set forth herein.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the Premises and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties, Landlord and Tenant hereby covenant and agree as follows:

1. Defined Terms. Capitalized terms used herein, unless otherwise defined herein, shall have the same meanings as given such terms in the Lease.

2. Terms of the Lease. The lease of the Premises shall be pursuant to all of the terms and conditions of the Lease as in effect from time to time; provided, however, that Landlord and Tenant hereby agree that the Lease shall be amended as follows:

a. Section 3. Lease Term. Subject to the terms and conditions herein and pursuant to O.C.G.A. § 36-60-13, Tenant shall have and hold the Premises described herein for an initial extended term commencing on January 1, 2024 and ending at 11:59 p.m. on December 31, 2024 (the "Initial Extended Term"). Pursuant to O.C.G.A. §36-60-13, after the expiration of the Initial Extended Term, the Lease Term shall automatically renew, without the necessity of any notice or other action from either Landlord or Tenant, for four (4) consecutive twelve (12) calendar month terms (each an "Extension Term") on the terms

set forth in this First Amendment, but such Extension Terms shall be contingent upon the availability and appropriation of funds by the Fulton County Board of Commissioners each year. If such funds are not available and appropriated for any Extension Term, Tenant shall have the right to terminate the Lease as provided in Tenant's Cancellation Option set forth in Paragraph 5 below. In no event shall the Lease Term continue beyond December 31, 2028, unless extended by mutual written agreement of Landlord and Tenant.

b. Section 5. Rent.

(i) On and after January 1, 2024, Base Rent for the Premises shall be payable to Landlord pursuant to Section 5 of the Lease in the amounts and to the payment address set forth in the basic Lease Provisions attached as Exhibit A-1 hereto and incorporated herein by this reference, or at such other place Landlord designates from time to time, without notice, demand, deduction or setoff.

(ii) Effective as of January 1, 2024, Tenant, in addition to Base Rent, shall pay to Landlord as Additional Rent an amount equal to the sum of (1) Tenant's Proportionate Share, on a per square foot basis, of the amount by which the Operating Expenses exceed the Operating Expenses component of the Common Area Expense Stop, and (2) Tenant's Proportionate Share, on a per square foot basis, of the amount by which the Taxes exceed the Taxes component of the Common Area Expense Stop.

c. Section 25(b). Peaceful Enjoyment; Relocation. Effective as of January 1, 2024, Landlord's right to relocate Tenant set forth in Section 25(b) of the Lease shall be amended by increasing the thirty (30) day notice period set forth therein to One Hundred Eighty (180) days.

3. Condition of the Premises. Tenant accepts the Premises in its "AS IS, WHERE IS" condition, "WITH ALL FAULTS," and without any warranties and representations (express or implied) whatsoever and Landlord shall have no obligation to perform any work with respect to the Premises, or to provide any allowances with respect thereto. Notwithstanding the foregoing to the contrary and provided Tenant is not then in default under this Lease, Tenant may elect to cause Landlord to complete the Tenant Improvements to the Premises subject to and in accordance with the provisions of Exhibit B-1 to this Lease by delivering written notice of such election on or before October 1, 2023 (the "Tenant Improvement Notice"). Upon receipt of the Tenant Improvement Notice, Landlord shall have the unfettered right to commence construction. If Tenant does not timely and properly deliver the Tenant Improvement Notice to Landlord on or before October 1, 2023, Landlord obligations under Exhibit B-1 hereto shall be null and void and of no force or effect whatsoever, Exhibit B-1 shall be null and void and deleted in its entirety, and Tenant shall have no rights in or to the Construction Allowance, all of which shall be the property of Landlord.

4. Deleted Provisions. Effective as of January 1, 2024, the following provisions of the Lease are hereby deleted in their entirety and shall be of no further force or effect whatsoever:

- a. Section 61 of the Lease ("Moving Allowance");
- b. Section 62 of the Lease ("Cancellation Option"); and
- c. Exhibit "D" to the Lease ("Tenant Work Agreement").

5. Cancellation Option. Pursuant to O.C.G.A. §36-60-13, Tenant shall have the right and option to terminate the Lease (the "Cancellation Option") as of the last day, December 31, of the then current calendar year (for purposes of this Cancellation Option, such date shall be

referred to herein as a "Cancellation Effective Date"). In order to exercise its cancellation right, Tenant shall deliver to Landlord on or before October 1 of the then current calendar year (a "Cancellation Notice Deadline") (i) a written notice of cancellation (a "Cancellation Notice") from an authorized officer or official of Tenant, and (ii) the applicable Cancellation Fee. If Tenant has not timely delivered its Cancellation Notice, together with the applicable Cancellation Fee, to Landlord before the applicable Cancellation Effective Date, the Cancellation Option in the then current calendar year shall terminate and be of no further force or effect, Tenant shall have no right or option to terminate the Lease pursuant to this Cancellation Option in such then current calendar year, and the Lease shall automatically renew and continue in force and effect for the ensuing calendar year. As a condition to any cancellation of the Lease by Tenant pursuant to the provisions of this Cancellation Option, Tenant must pay to Landlord a one-time lump sum cancellation fee (the "Cancellation Fee"), as additional rent under the Lease, in an amount equal to the applicable amount set forth in the following schedule:

(a) If Tenant terminates this Lease effective as of the expiration of calendar year 2024, Tenant shall pay Landlord a one-time lump sum payment of THREE HUNDRED SIXTY-ONE THOUSAND FOUR HUNDRED SIXTY-ONE AND 45/100 DOLLARS (\$361,461.45) as Additional Rent; provided, however, that if Tenant has elected not to utilize the FIVE DOLLARS (\$5.00) per rentable square foot Construction Allowance, the one-time lump sum payment will be reduced to ONE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED SIXTY-THREE AND 84/100 DOLLARS (\$199,963.84).

(b) If Tenant terminates this Lease effective as of the expiration of calendar year 2025, Tenant shall pay Landlord a one-time lump sum payment of TWO HUNDRED SEVENTY-NINE THOUSAND THIRTY-NINE AND 84/100 DOLLARS (\$279,039.84) as Additional Rent; provided, however, that if Tenant has elected not to utilize the FIVE DOLLARS (\$5.00) per rentable square foot Construction Allowance, the one-time lump sum payment will be reduced to ONE HUNDRED FORTY-NINE THOUSAND EIGHT HUNDRED NINETY-ONE AND 88/100 DOLLARS (\$149,891.88).

(c) If Tenant terminates this Lease effective as of the expiration of calendar year 2026, Tenant shall pay Landlord a one-time lump sum payment of ONE HUNDRED NINETY-ONE THOUSAND FIVE HUNDRED THIRTY-FOUR AND 65/100 DOLLARS (\$191,534.65) as Additional Rent; provided, however, that if Tenant has elected not to utilize the FIVE DOLLARS (\$5.00) per rentable square foot Construction Allowance, the one-time lump sum payment will be reduced to NINETY-NINE THOUSAND NINE HUNDRED THIRTY-ONE AND 92/100 DOLLARS (\$99,931.33).

(d) If Tenant terminates this Lease effective as of the expiration of calendar year 2027, Tenant shall pay Landlord a one-time lump sum payment of NINETY-EIGHT THOUSAND SIX HUNDRED THIRTY-TWO AND 33/100 DOLLARS (\$98,632.33) as Additional Rent; provided, however, that if Tenant has elected not to utilize the FIVE DOLLARS (\$5.00) per rentable square foot Construction Allowance, the one-time lump sum payment will be reduced to FORTY-NINE THOUSAND NINE HUNDRED SIXTY-FIVE AND 56/100 DOLLARS (\$49,965.56).

Any failure by Tenant to timely deliver a Cancellation Notice to Landlord terminating the Lease, and payment of the applicable Cancellation Fee, before the Cancellation Effective Date shall mean Tenant waived Tenant's right to terminate the Lease pursuant to this Cancellation Option for the applicable calendar year. If Tenant validly and timely exercises this Cancellation Option, Tenant shall nonetheless continue to be liable for its obligations accruing under the Lease with respect to the Premises up to and including the Cancellation Effective Date, including, without limitation,

Base Rent, Additional Rent, and all such obligations having accrued prior to the Cancellation Effective Date shall survive the termination of the Lease. Notwithstanding anything in this Cancellation Option to the contrary, Tenant shall have no right to exercise the Cancellation Option at any time (i) during which the Lease is not in full force and effect or (ii) after Tenant has assigned the Lease other than to a Permitted Transferee.

6. Parking. Tenant shall have the right to maintain its current number and location of reserved parking spaces in the Parking Facility for the remainder of the Initial Extended Term and Extension Terms.

7. Brokerage Commissions. Tenant represents that it has not retained or consulted with a broker, agent or commission salesperson with respect to the negotiation of this First Amendment, except CBRE, Inc., and that no commissions, fees or compensation of any kind are due and payable in connection herewith to any broker, agent or commission salesperson acting for or on behalf of Tenant other than to CBRE, Inc. To the extent permitted by law, Tenant agrees that Tenant shall be solely responsible for the payment of any and all loss, cost and damage suffered or incurred by Landlord as the result of any breach by Tenant of the representation contained in this Paragraph. Notwithstanding the foregoing, nothing in this Amendment shall be construed as a waiver of any governmental immunities available to Tenant, its officials, officers, employees or agents. Except Transwestern, no broker, agent or commission salesperson has represented Landlord in the negotiation of this First Amendment, and Landlord has agreed to compensate Transwestern and CBRE for their services in accordance with the terms of separate commission agreements.

8. Basic Lease Provisions. In order to reflect the extension of the Lease Term and the modification of the Base Rent rate, as well as certain other matters, the Basic Lease Provisions originally incorporated into the Lease, are hereby amended as set forth in Exhibit A-1 attached hereto and incorporated herein; except, however, that the Basic Lease Provisions originally incorporated into the Lease that are unamended by this First Amendment shall remain in effect.

9. No Further Amendments; Ratification. Except as expressly amended herein, all terms and conditions of the Lease remain unamended in full force and effect and are hereby ratified and confirmed by Landlord and Tenant. In the event of any conflict between the terms and conditions of the Lease and the terms and conditions of this First Amendment, the terms and conditions of this First Amendment shall control. A condition precedent to Landlord's obligations under this First Amendment is the approval of this First Amendment by all lenders holding a deed to secure debt and security agreement and related loan documents affecting or imposing a lien or security title on the Building. Submission of this instrument for examination or signature by Tenant does not constitute an agreement between Landlord and Tenant and shall not become effective until execution and delivery by both Landlord and Tenant.

10. Authority. The person signing this First Amendment on behalf of Landlord or Tenant hereby represents and, to the extent permitted by law, warrants that (i) he/she is authorized to execute this First Amendment on behalf of Landlord or Tenant, (ii) he/she possesses the requisite power and authority to bind Landlord or Tenant to the terms and provisions hereof, (iii) Landlord or Tenant has taken all actions necessary to authorize the execution, delivery and performance of this First Amendment by Landlord or Tenant, and (iv) Landlord or Tenant has been duly organized and is qualified or authorized to do business in the State in which the Building is located. Furthermore, Landlord or Tenant agrees to take any and all necessary action to keep its existence as an entity in good standing throughout the Term, as extended herein and as may be further extended, in the State

in which Landlord or Tenant has been organized as well as to remain qualified to do business within the State in which the Building is located.

11. No Defaults. Landlord and Tenant hereby agrees that there are, as of the date hereof, regardless of the giving of notice or the passage of time, or both, no defaults or breaches on the part of Landlord or Tenant under the Lease.

12. Headings. The headings used herein are provided for convenience only and are not to be considered in construing this First Amendment.

13. Entire Agreement. This First Amendment represents the entire agreement between the parties with respect to the subject matter hereof. Landlord and Tenant agree that there are no collateral or oral agreements or understandings between them with respect to the Premises or the Building other than the Lease and this First Amendment. This First Amendment supersedes all prior negotiations, agreements, letters or other statements with respect to the matters addressed herein.

14. Binding Effect. This First Amendment shall not be valid and binding on Landlord and Tenant unless and until it has been completely executed by and delivered to both parties.

15. Counterparts; Delivery. This First Amendment may be executed in multiple counterparts, all of which together shall constitute one and the same original instrument. Electronic signatures to this Second Amendment, whether digital or encrypted (including, without limitation, .pdf scan copies, DocuSign signatures and similar formats) as executed by the parties, and regardless of the form of delivery (including but not limited to electronic delivery), shall be deemed and treated as executed originals for all purposes.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have caused this First Amendment to be executed as of the date below each party's signature block, respectively, but with intent to be bound hereby as of the First Amendment Date.

LANDLORD:

WILMINGTON TRUST, NATIONAL ASSOCIATION, as Trustee, for the Benefit of Holders of J.P. Morgan Chase Commercial Mortgage Securities Trust 2018-PTC, Commercial Mortgage Pass-Through Certificates, Series 2018-PTC and the Future Advance Lender

By: _____
Name: _____
Title: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

TENANT:

FULTON COUNTY, GEORGIA, a political
subdivision of the State of Georgia

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

Attest: 
Tonya R. Grier, Clerk
Fulton County Board of Commissioners

APPROVED AS TO FORM:


Y. Soo Jo, County Attorney



Exhibit A-1

**PEACHTREE CENTER
BASIC LEASE PROVISIONS**

Lease Date Office Lease, dated as of January 6, 2015 (amended by First Amendment, dated, effective as of the First Amendment Date)

Landlord **WILMINGTON TRUST, NATIONAL ASSOCIATION**, as Trustee, for the Benefit of Holders of J.P. Morgan Chase Commercial Mortgage Securities Trust 2018-PTC, Commercial Mortgage Pass-Through Certificates, Series 2018-PTC and the Future Advance Lender

Tenant **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia

Building Name 235 Peachtree

Building Address 235 Peachtree St. NE
Atlanta, Georgia 30303

Premises Suites 1100, 1200, 1400

Lease Term Twelve (12) months, subject to automatic extension of four (4) consecutive 12-month terms as provided in this First Amendment.

Extension Effective Date January 1, 2024

Expiration Date December 31, 2024, subject to automatic extension of four (4) consecutive 12-month terms as provided in this First Amendment.

Rentable Area of Office Tower 302,939 square feet

Rentable Area of the Premises 37,853 square feet

Tenant's Percentage Share 12.5%

Base Rent

Lease Term	Rentable Area	Base Rent Per Sq. Ft. of Rentable Area	Monthly Base Rent	Period Base Rent
01/01-24-12/31/24	37,853	\$22.00	\$69,397.17	\$832,766.04
01/01/25-12/31/25	37,853	\$22.00	\$69,397.17	\$832,766.04
01/01/26-12/31/26	37,853	\$22.00	\$69,397.17	\$832,766.04

01/01/27-12/31/27	37,853	\$22.00	\$69,397.17	\$832,766.04
01/01/28-12/31/28	37,853	\$22.00	\$69,397.17	\$832,766.04

**Base Year For
Operating Expenses**

Calendar year 2024

**Base Year for
Real Estate Taxes**

Calendar year 2024

Security Deposit

\$0.00

Landlord's Addresses

For Notices:
c/o Transwestern
225 Peachtree Street
Suite 200
Atlanta, Georgia 30303

With copy sent to:
c/o Situs Holdings, LLC
101 Montgomery Street, Suite 2250
San Francisco, CA 94104

**Address for Rental
Payments**

If paid by bank wire, to the following account:
[Account Information to be Provided Upon Request]

If paid by check and mailed, to:
JPMCC Mtg Sec Trust, Comm Mtg PT Certs, Ser 2018-PTC Upper Tier
REMIC
P.O Box 30417
Tampa, FL 33630

Tenant's Address

For Notices:

Department of Real Estate and Asset
Management
141 Pryor Street S.W., Suite 8021
Atlanta, Georgia 30303
Land Administrator

County Attorney
Fulton County Attorney's Office
Fulton County Government Center
141 Pryor Street, S.W., Suite 4038
Atlanta, Georgia 30303

Fulton County, Georgia
Department of Real Estate and Asset

Management
141 Pryor Street, SW, Suite G119
Atlanta, Georgia, 30303
Attention: Director

County Manager
141 Pryor Street, S.W. 10th Floor
Atlanta, Georgia 30303

Construction Allowance	\$189,265.00 (\$5.00 Per Rentable Square Foot), subject to the provision of Paragraph 3 of this First Amendment.
Landlord's Broker	Transwestern
Tenant's Broker	CBRE. Inc.

Note: These Basic Lease Provisions apply to the portion of the Lease Term commencing on January 1, 2024. They do not address the portion of the Lease Term falling prior to that date.

EXHIBIT B-1

TENANT WORK AGREEMENT

Landlord and Tenant executed the within and foregoing First Amendment and hereby attach this Work Agreement as Exhibit B-1 thereto. Subject to the terms and conditions set forth in Paragraph 3 of the First Amendment and in consideration of the mutual covenants herein contained, Landlord and Tenant agree as follows:

I. Tenant Improvements.

A. Landlord, at its sole cost and expense not to exceed the Construction Allowance set forth in Exhibit A-1 of this First Amendment, agrees to refurbish the Premises using Building standard quality materials in colors selected by Tenant and approved by Landlord as follows:

- i. re-paint the existing painted portions of the Premises, and
- ii. re-carpet the existing carpeted portions of the Premises (hereinafter referred to as the "Tenant Improvements").

If Tenant has not informed Landlord of its choice of building standard materials for the Tenant Improvements on or before the date of Tenant's execution of this First Amendment, Landlord shall be entitled to conduct the Tenant Improvements using its own choice of building standard materials.

B. Tenant expressly acknowledges and agrees that, at Tenant's request and in reliance on this subsection B., Landlord shall complete the Tenant Improvements during Tenant's occupancy of the Premises and that such construction may result in the inconvenience of Tenant or the interference with the conduct of Tenant's business in the Premises. Tenant hereby accepts such consequences, assumes all risks associated therewith and waives any claim of injury or inconvenience to Tenant's business, interference with Tenant's business, loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by such entry or the performance of the Tenant Improvements, and the same shall not relieve Tenant of any obligations under this Lease. Landlord shall have the right to recapture some or all of the space within the Premises on a temporary basis for the construction and installation of the Tenant Improvements. Landlord shall coordinate any such recapture with Tenant in order to mitigate any inconvenience to Tenant resulting therefrom. During the construction of the Tenant Improvements, Tenant shall cooperate with Landlord in providing Landlord, its agents, employees and contractors, with access to the Premises during working hours for construction and installation of the Tenant Improvements. Tenant shall move or relocate its furniture, fixtures and equipment, at its sole cost and expense, to accommodate the construction of the Tenant Improvements. Any delays resulting from Landlord's construction of the Tenant Improvements while Tenant is in occupancy of the Premises shall be deemed to be Tenant Delay. No entry into or recapture of all or any portion of the Premises by Landlord under this subsection B. shall be deemed a forcible or unlawful entry into the Premises or a detainer of the Premises, or an eviction, actual or constructive, of Tenant from the Premises, or any part of the Premises, nor shall such entry entitle Tenant to damages or an abatement of Rent or other charges that the Lease requires (notwithstanding anything in the Lease to the contrary).

2. Scope of Landlord's Approval. Any approval or consent by Landlord of any items submitted by Tenant to and/or reviewed by Landlord pursuant to this Work Agreement shall be deemed to be strictly limited to an acknowledgment of approval or consent by Landlord thereto and shall not imply or be deemed to imply any representation, warranty or covenant by Landlord that the design is safe and structurally sound or will comply with, or is not in violation of, any applicable laws, rules or regulations or any standard of due care regarding engineering of structural design or quality of material, and Landlord does not assume any responsibility therefor, nor for any defect in any structure constructed from such design. Any deficiency, mistake or error in design, although the same has the consent or approval of Landlord, shall be the sole responsibility of Tenant, and Tenant shall be liable for all costs and expenses which may be incurred and all delays suffered in connection with or resulting from any such deficiency, mistake or error in design.

3. ADA Compliance. Tenant shall not be obligated to pay for Building compliance with the Americans with Disability Act ("ADA"), unless such compliance arises out of Tenant's specific use of the Premises and Building or Tenant's alterations thereto. Landlord shall not be responsible for determining whether Tenant is a public accommodation under ADA. Such determination, if desired by Tenant, shall be the sole responsibility of Tenant.

4. Completion of Premises. The Tenant Improvements in the Premises shall be deemed substantially complete ("Substantially Complete" or "Substantial Completion") on the date Landlord delivers written notice to Tenant of such event. The fact that certain minor items commonly considered punchlist items in the construction industry remain to be corrected or finished shall not render the Tenant Improvements less than substantially complete. By taking possession of the Premises, Tenant acknowledges and agrees that the Premises are usable by Tenant as intended and both the Building and the Premises are satisfactory in all respects.

5. Construction Allowance for Tenant Improvement Costs

A. Landlord shall pay the cost of refurbishing the Premises as provided in Section 1 above (the "Tenant Improvement Costs"), up to, but not in excess of, the Construction Allowance (any such excess costs being hereinafter referred to as "Tenant's Costs"). The Construction Allowance is applicable to the Tenant Improvements, any costs associated with space planning, construction documents, mechanical, electrical, and plumbing drawings, permitting, construction costs, and construction management fees. Notwithstanding anything to the contrary in this Section 5, any portion of the Construction Allowance not requisitioned in writing prior to the date that is six (6) months after the Commencement Date shall be retained by Landlord, and Tenant shall have no further rights thereto.

B. Tenant shall pay Tenant's Costs to Landlord, including:

1. Tenant Improvement Costs (if any) in excess of the Construction Allowance;

2. The cost of preparing and finalizing all drawings and specifications, and all fees for architects, engineers, interior designers, and other professionals and design specialists incurred by Landlord or Tenant in connection with the Tenant Improvements, if any. Such costs may be funded out of the Construction Allowance, to the extent available; and

3. A construction management fee equal to three percent (3%) of the total cost of all work associated with the Tenant Improvements. Such fee shall be paid to Landlord or Landlord's designated agent, and may be funded out of the Construction Allowance, to the extent available.

C. Tenant shall pay Tenant's Costs to Landlord prior to commencement of the Tenant Improvements upon Tenant's receipt from Landlord of an invoice for such costs. Failure by Tenant to pay such costs in accordance with this Section 5 shall constitute a failure by Tenant to pay Rent when due under the Lease.

6. Tenant Delay. The term "Tenant Delay" shall mean any delay in achieving Substantial Completion as a result of or in connection with:

a. Tenant's failure to furnish any information or documents in accordance with this Work Agreement, to the extent such failure causes a delay;

b. Any change orders requested by Tenant, to the extent such change orders causes a delay;

c. If in the performance or prosecution of Tenant's Extra Work, Tenant's employees or agents interfere with or in any manner hinder Landlord or Landlord's contractor from prosecuting to the fullest extent possible the Tenant Improvements to the extent such interference or hindrance causes a delay; and

d. Any other delay caused by Tenant, its agents, contractors, architects, engineers and employees.

7. General Provisions Applicable to Tenant's Extra Work.

a. Tenant shall submit to Landlord all relevant documents relating to any work performed by or on behalf of Tenant in the Premises not part of the Tenant Improvements ("Tenant's Extra Work"). Landlord shall have the right to approve reasonably Tenant's Extra Work and the methods of construction and the contractors which will perform Tenant's Extra Work. Prior to the commencement of Tenant's Extra Work, Tenant shall provide to Landlord a payment and performance bond issued by a bonding company subject to Landlord's approval and naming Landlord as an additional obligee.

b. Landlord will require high grade, first-class work to be constructed in the Premises. Tenant's Extra Work shall be performed in a first-class manner, using first-class quality materials. Tenant's Extra Work shall be constructed and installed in accordance with all applicable laws, ordinances, codes and rules and regulations of governmental authorities. Tenant shall promptly correct any of Tenant's Extra Work which is not in conformance therewith.

c. Tenant's contract parties and contractors shall be subject to supervision by Landlord in their use of the Building and their relationship with Landlord's contractor, or contractors of other tenants in the Building. The entry by Tenant and/or its contract parties into the Premises for the performance of Tenant's Extra Work shall be subject to all of the terms and conditions of the Lease except the payment of Rent. If Landlord allows Tenant and/or its contract parties to enter the Premises and commence the performance of Tenant's Extra Work prior to the date of Substantial Completion of the Tenant Improvements, such entry by Tenant shall be at Tenant's sole risk.

d. Tenant's Extra Work shall be coordinated and conducted to maintain harmonious labor relations and not (a) interfere with or delay the completion of any work being performed by Landlord's contractors or contractors of any other tenant in the Building; or (b) interfere with or disrupt the use and peaceful enjoyment of other retail or office tenants in the Building. Landlord's contractor shall have priority over Tenant's Extra Work.

e. Tenant and Tenant's contract parties shall perform their work, including any storage for construction purposes, within the Premises only. Tenant shall be responsible for removal, as needed, from the Premises and the Building of all trash, rubbish, and surplus materials resulting from any work being performed in the Premises. Tenant shall exercise extreme care and diligence in removing such trash, rubbish, or surplus materials from the Premises to avoid littering, marring, or damaging any portion of the Building. If any such trash, rubbish, or surplus materials are not promptly removed from the Building in accordance with the provisions hereof or if any portion of the Building is littered, marred, or damaged, Landlord may cause same to be removed or repaired, as the case may be, at Tenant's cost and expense. If Landlord incurs any costs or expenses in performing the above, Tenant shall pay Landlord the amount of any such cost and expenses promptly upon demand therefor.

f. All contractors and subcontractors engaged by Landlord and Tenant shall maintain adequate and commercially reasonable insurance coverages in amounts as may be required by Landlord, and the insurance policies maintained by Tenant's contractors and subcontractors shall name Landlord, Landlord's mortgagee, property manager, and Landlord's contractor as additional insureds and shall contain a waiver of subrogation.

g. Tenant will be responsible for repairing any damage to the Building or Project common areas caused by Tenant or its agents or contractors within fifteen (15) days of receipt of written notice by Landlord. If such repairs have not been completed within said fifteen (15) day period, Landlord may cause the damage to be repaired at Tenant's expense. Notwithstanding the foregoing, if the nature of the damage is such that repair could not reasonably be completed within said fifteen (15) day period, and provided Tenant has promptly commenced and diligently pursued completion of the same, Tenant shall have as long as reasonably necessary to complete such repair, not to exceed thirty (30) days. Within thirty (30) days of receipt

of an invoice therefor, Tenant shall reimburse Landlord for its actual costs and expenses in completing any such repair.

8. Tenant's Agent. Tenant will have the option to designate its authorized representative on this Work Agreement. Any response from such person under this Work Agreement shall be the response of Tenant.