

**PURCHASE AND SALE AGREEMENT**

By and Between

**THE BROOKLYN UNION GAS COMPANY** d/b/a National Grid NY,  
a New York corporation, Seller

and

**PROLOGIS, L.P.,**  
a Delaware limited partnership, Purchaser

**Property:**

2731 West 12<sup>th</sup> Street  
Brooklyn, New York  
(Block 7247, Lot 106)

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## **PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into and is effective as of the 22nd day of December 2022 (the "Effective Date"), by and **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation, having an address at 175 East Old Country Road, Hicksville, New York 11801 ("Seller") and **PROLOGIS, L.P.**, a Delaware limited partnership, having an address at 1800 Wazee Street, Suite 500, Denver, Colorado 80202 (the "Purchaser").

### **RECITALS**

A. Seller is the fee title owner to the Property, consisting solely of vacant Land (as defined below).

B. Upon the satisfaction of, and subject to, the terms and conditions set forth in this Agreement, Seller has agreed to sell the Property to Purchaser, and Purchaser has agreed to purchase the Property from Seller.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth below.

#### **Section 1. Sale of the Property and Acceptable Title; Former MGP Site.**

(a) **Sale of Property.** Subject to and in accordance with the terms and conditions contained in this Agreement, Seller agrees to sell, assign, convey, and transfer to Purchaser all of Seller's right, title and interest in and to the following real property (the "Property"), and Purchaser hereby agrees to purchase and accept the Property:

(1) **Land.** Subject to all Permitted Exceptions (as defined below), fee title to that certain vacant real property known as 2731 West 12<sup>th</sup> Street, Brooklyn, New York and designated as Block 7247, Lot 106 on the New York City Tax Map, Kings County (the "Land"). The legal description of the Land is annexed hereto as **Schedule A.**

(2) **Appurtenances.** All rights, benefits, privileges, tenements, hereditaments, easements and appurtenances to the Land, all development rights and air rights relating to the Land and any and all easements, rights-of-way and other appurtenances used in connection with the beneficial use and enjoyment of the Land, including all of the right, title and interest, if any, of Seller in and to the land in the bed of any public street, road or avenue, in front of or adjoining the Land, to the center line thereof, and all water, water rights and water stock and minerals and mineral rights of every kind (including without limitation, oil, gas and other hydrocarbon substances) on or under the Land owned by Seller and not previously conveyed or reserved of record, all of the foregoing, only to the extent that such rights and privileges can be conveyed.

(3) **Awards.** All right, title and interest to any unpaid awards for damages to

the Land resulting from any taking in eminent domain or by reason of change of grade of any street accruing after the Closing Date (as hereinafter defined) to the extent not credited in reduction of the Purchase Price or otherwise assigned to Purchaser. All such awards accruing prior to the Closing Date shall remain the property of Seller, subject to the provisions of Section 12 of this Agreement.

(b) Acceptable Title. Seller shall convey and Purchaser shall accept such title to the Property as is insurable (without special premium), subject, nevertheless, only to the following matters (collectively, the “Permitted Exceptions”):

(1) Real estate taxes and assessments not yet due and payable. All taxes and charges shall be brought current as of the Closing Date and are subject to apportionment as more fully set forth below.

(2) Encroachments, if any, of fences and other improvements.

(3) All zoning, building and environmental laws, ordinances, codes, restrictions and regulations, and any amendments thereto, heretofore or hereafter adopted by any municipal, state, federal or other authority having or claiming jurisdiction over the Property.

(4) Any state of facts, shown on the survey attached hereto as Exhibit C or personal inspection of the Property would disclose, provided same do not render title uninsurable.

(5) Rights of any public authority or utility company to lay, maintain install and repair pipes, lines, poles, conduits, wires, cable boxes and other related equipment on, under, over or across the Property.

(6) Variations between record lines of the Property and retaining walls, if any.

(7) Variations between legal description and the description contained in the tax map.

(8) Covenants, restrictions, consents, agreements and easements of record affecting the Property, including, but not limited to, those certain covenants, restrictions, consents, agreements and easements of record set forth on Exhibit D attached hereto and made a part hereof.

(9) Environmental Easement, referenced in Section 1(c) below, intended to be recorded on or prior to the Closing Date.

(10) Any and all notes and notices of violations of law or municipal ordinances, orders or requirements now or hereafter noted in, or issued by, any governmental department having authority as to land, housing, buildings, fire, health, environmental and labor conditions affecting the Property, including those set forth in Section 14 hereof.

(11) Standard exceptions and exclusions from coverage normally contained in the form of the owner’s title insurance policy to be issued by the title company less those standard exceptions removable by Seller by delivery of the documents required by Section 9(a)(5) hereof. Provided, however, that in no circumstance shall the Permitted Exceptions include Seller

Encumbrances (hereinafter defined).

(c) Former MGP Site. Purchaser expressly acknowledges that the Property was formerly used as a manufactured gas plant ("MGP") by Seller's predecessor, Brooklyn Borough Gas Works, which use resulted in the contamination of the soil, groundwater and the adjacent Coney Island Creek as described in the environmental reports provided by Seller, as listed in Exhibit E annexed hereto, which exhibit may be amended anytime prior to five (5) business days prior to the expiration of the Investigation Period, as defined herein (the "Environmental Reports"). Purchaser further acknowledges that the Property is designated as a Class 4 Site currently in the New York State ("NYS") Inactive Hazardous Waste Disposal Site Remedial Program (as Site No. 224026 administered by the NYSDEC. Purchaser also acknowledges that the Seller has undertaken certain remedial and post remedial activities, as required by the Order on Consent, Index # D2-001-94-12 (the "Order"), between Seller and the New York State Department of Environmental Conservation (the "NYSDEC"), and pursuant to the Records of Decision, dated March 2001 and March 2002 (collectively, the "ROD"). These remedial and post remedial activities include engineering and institutional controls that must remain on the Property, including but not limited to an environmental easement (the "Environmental Easement") requiring compliance with the Site Management Plan, latest version of which was approved by NYSDEC on June 26, 2019, and as may be amended and approved by NYSDEC in the future (the "SMP"). Seller shall cause an update to the SMP and the Environmental Easement to be submitted to the NYSDEC by the Closing Date. Purchaser further acknowledges that additional environmental investigation and/or remediation may be required adjacent to the Property in the future by state or federal agencies.

**Section 2. Consideration, Base Purchase Price and Acceptable Funds.**

(a) Base Purchase Price. The purchase price (the "Purchase Price") to be paid by Purchaser to Seller for the Property shall be SIXTY MILLION THREE HUNDRED THOUSAND AND 00/100 (\$60,300,000.00) DOLLARS, payable pursuant to the terms and conditions contained in this Agreement, but subject to adjustment and apportionment as provided below.

(b) Acceptable Funds. All monies payable under this Agreement, unless otherwise specified, shall be paid by:

(1) Wire transfer pursuant to wire instructions provided to Purchaser by Seller prior to Closing; or

(2) As otherwise agreed to in writing by the parties.

**Section 3. Deposit and Escrow.**

Within three (3) business days of the Effective Date, Purchaser shall deliver a deposit to Royal Abstract of New York LLC ("Escrow Agent"), 125 Park Avenue, New York, New York 10017, Attn: Martin Kravet (if by check, subject to collection, if by wire, subject to receipt), in the amount of ONE MILLION FIFTEEN THOUSAND AND 00/100 (\$1,015,000.00) DOLLARS (the "Initial Deposit"). Within three (3) business days of the expiration of the Investigation Period, Purchaser shall deposit an additional TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS in escrow to be held by Escrow Agent in accordance with this Agreement (the Additional Deposit,

together with the Initial Deposit, the "Deposit"). The Deposit shall be applied to the Purchase Price at Closing. Escrow Agent shall retain possession of the Deposit until delivery or return thereof is permitted or required under this Agreement. The Deposit shall be deposited in a separate interest-bearing escrow account at Capital One. The Deposit shall be held by the Escrow Agent pursuant to the terms of this Agreement and the Escrow Agreement annexed hereto as Exhibit A. If there is any conflict between the terms of this Agreement and the Escrow Agreement with respect to the Deposit or the Escrow Agent's duties with respect thereto, the terms of the Escrow Agreement shall govern.

In addition, upon the expiration of the Investigation Period, Purchaser understands, acknowledges and agrees that the Deposit, shall immediately become non-refundable (except upon an uncured default by Seller or Seller's inability, or refusal to comply with the terms of this Agreement, or as otherwise specifically provided for in this Agreement, which includes, without limitation, the occurrence of a Material Taking (as hereinafter defined), termination as a result of Seller's Objection Response, the Title Company's failure to issue the Title Policy or the failure of a condition precedent to the Purchaser's obligation to close), and shall be delivered by Escrow Agent to Seller if Purchaser shall fail to close hereunder on or before the Closing Date, subject in any event to compliance by the Escrow Agent with the notification and other obligations contained in the Escrow Agreement. If the purchase and sale shall close pursuant to this Agreement, the Deposit (exclusive of accrued interest, if any) shall be credited against the Purchase Price at Closing.

#### Section 4. Condition of Property.

(a) As-Is. **PURCHASER ACKNOWLEDGES THAT SELLER IS SELLING, AND PURCHASER SHALL ACCEPT, THE PROPERTY IN ITS "AS IS" CONDITION, NORMAL WEAR AND TEAR EXCEPTED WITHOUT ANY REPRESENTATION OR WARRANTY, STATED OR IMPLIED, WHATSOEVER BY SELLER OR ANY EMPLOYEES, REPRESENTATIVES OR AGENTS OF SELLER RELATING TO THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE EXPRESSED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH THE EXCEPTION OF THE EXPRESS, LIMITED REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT OR IN ANY DOCUMENT EXECUTED PURSUANT TO OR IN CONNECTION WITH THIS AGREEMENT. EXCEPT WITH RESPECT TO THE EXPRESS LIMITED REPRESENTATIONS AND WARRANTIES OF SELLER, PURCHASER COVENANTS AND WARRANTS TO SELLER THAT PURCHASER HAS RELIED SOLELY ON PURCHASER'S OWN DUE DILIGENCE INVESTIGATION IN DETERMINING TO PURCHASE THE PROPERTY. PURCHASER ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO RETAIN PROFESSIONAL ADVISORS, INCLUDING LEGAL COUNSEL, IN CONNECTION WITH ITS DUE DILIGENCE INVESTIGATION OF THE PROPERTY AND THE ENTERING INTO OF THIS AGREEMENT.**

Except as expressly set forth in this Agreement, Seller makes no representations or warranties with regards to the (i) condition of the Property and (ii) the permissible or legal use of the Property. Purchaser agrees to take title to the Property, irrespective of the physical condition of the Property on the Closing Date, whether the result of general wear and tear; subject in any event to the

provisions of this Agreement.

(b) Merger. It is understood and agreed that all oral or written statements, representations or promises, of any and all prior negotiations and agreements are superseded and hereby merged in this Agreement, which alone fully and completely expresses the parties' agreement, and that the same is entered into after full investigation, neither party relying upon any statement or representation, not embodied in this Agreement, made by the other. Seller shall not be liable for or be bound by any verbal or written statements, representations or information pertaining to the Property furnished by any real estate broker, agent, employee, servant or any other person, unless the same are specifically set forth herein. All prior oral or written statements, representations, or promises, if any, and all prior negotiations and agreements heretofore had between the parties hereto are superseded by this Agreement and are merged herein.

(c) Release. By execution of this Agreement, except with respect to claims arising under this Agreement, the Closing documents or documented acts of fraud by Seller, Purchaser, on behalf of itself, its officers, directors and its and their successors and assigns, does hereby forever release the (i) Seller, (ii) National Grid USA, (iii) National Grid plc and each of its respective parent corporations, subsidiaries, affiliates and its officers, directors, contractors and advisors (collectively, "Seller's Affiliates") of and from any and all losses, liabilities, damages, claims, demands, causes of action, costs and expenses (collectively, "Losses"), whether known or unknown, arising out of or in any way connected with the Property, including, without limitation, the environmental and/or physical condition of the Property and by the execution of this Agreement, Purchaser does hereby forever release Seller and Seller's Affiliates of and from any environmental claims and causes of action existing now or hereafter created or enacted, whether at common law or by federal, state, county, or municipal law or ordinance. Except as required by applicable law, Purchaser agrees never to commence, aid in any way, or prosecute against Seller and Seller's Affiliates and their respective successors and assigns, any action or other proceeding based upon any Losses covered in this paragraph. The provisions of this subparagraph (c) shall survive Closing [REDACTED]

[REDACTED] Purchaser expressly waives any rights or benefits available to it with respect to the foregoing release under any provision of applicable law which generally provides that a general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time the release is agreed to, which, if known to such creditor, would materially affect a settlement. Purchaser, by the execution of this Agreement, acknowledges that Purchaser fully understands the foregoing, and with this understanding, nonetheless elects to and does assume all risk for claims known or unknown, described in this Section 4. Notwithstanding the foregoing, in the event of any inconsistency or conflict between the provisions of this Section 4(c) and Section 14, the provisions of Section 14 shall control.

#### Section 5. No Mortgage Contingency, Title and Survey.

(a) No Mortgage Contingency. Purchaser has made or will have made arrangements satisfactory to it to have sufficient funds available to perform all of its financial obligations hereunder at the time performance is required. **PURCHASER ACKNOWLEDGES THAT ITS OBLIGATION TO PERFORM HEREUNDER IS NOT CONDITIONED OR CONTINGENT UPON THE OBTAINING OF ANY THIRD-PARTY FINANCING AND/OR FUNDING AND THAT IF PURCHASER IS UNABLE TIMELY TO CLOSE**



**HEREUNDER AS A RESULT OF THE UNAVAILABILITY FOR ANY REASON OF THIRD-PARTY FINANCING (OR OTHER FUNDING), PURCHASER SHALL BE IN BREACH AND DEFAULT HEREUNDER WITHOUT ANY CURE OR GRACE PERIOD AND SELLER MAY EXERCISE ITS DEFAULT RIGHTS UNDER THIS AGREEMENT.**

(b) Title. (i) Purchaser, at Purchaser's sole cost and expense, shall order a title commitment (the "Title Commitment") from Royal Abstract of New York LLC (the "Title Company") and shall cause a copy of the Title Commitment, and all updates, to be forwarded to Seller's attorney within three (3) business days of its receipt of same. Not later than April 14, 2023 (the "Title Objection Date"), Purchaser may provide notice to Seller that Purchaser disapproves of one or more matters affecting title to the Property (the "Objection Notice"), including any matters disclosed by the Survey or any updated survey of the Property obtained by Purchaser (an "Updated Survey"), and request that Seller correct such deficiency, provided, however, that the existence of the Permitted Exceptions and the standard exceptions on Purchaser's title commitment shall not be considered unsatisfactory title conditions (except to the extent that said standard exceptions are removable by delivery of the documents required by Section 9(a)(5) hereof) and Seller shall not be required hereby to correct any such purported deficiency. All matters affecting title to the Property including survey matters which are not disapproved by Purchaser on or before the Title Objection Date, and which have been disclosed to Purchaser in the Title Commitment issued by the Title Company or Survey shall be deemed to be additional Permitted Exceptions for the purposes of this Agreement. In the event Seller receives no such Object Notice, all such matters affecting title to the Property shall be deemed Permitted Exceptions. Notwithstanding anything to the contrary, in the event of any amended, updated or modified version of the Title Commitment or Updated Survey, Purchaser shall have the right to provide an Objection Notice with respect to any additional or modified title or survey matters contained in such amended, updated or modified Title Commitment or any new or amended matters contained in any Updated Survey, provided the same are not Permitted Exceptions (each a "New Matter"), within ten (10) days of Purchaser's receipt of such amended, updated or modified version of the Title Commitment or Updated Survey.

(ii) If Purchaser timely provides an Objection Notice, Seller shall, in the exercise of its sole discretion, within fourteen (14) days thereafter, advise Purchaser in writing (the "Objection Response") whether or not Seller intends to (i) correct the applicable objections, (ii) provide endorsement coverage with respect thereto prior to the Closing or (iii) elect not to cure such objections. In the event that Seller elects to cure such objection, Seller shall be entitled to reasonable adjournments of the Closing (in no event to exceed forty-five (45) days in the aggregate), to enable Seller to cure any title exceptions, defects or objections and to convey the Property to Purchaser in accordance with the terms of this Agreement. If Seller fails to advise Purchaser within such fourteen (14) day period of whether or not it will correct the title or survey objection, Seller will be deemed to have refused to cure such item. In such event or if Purchaser shall not be satisfied, in its commercially reasonable and documented judgment, with Seller's Objection Response, then Purchaser may elect, by giving written notice to Seller within ten (10) days of receipt of Seller's Objection Response (or the expiration of Seller's applicable response period), to either (i) terminate this Agreement, in which event the Deposit shall be promptly returned to Purchaser, and neither party shall have any further rights or obligations under this Agreement, except those obligations that survive the termination by their terms, or (ii) accept title such as Seller is willing to convey, in which case such disapproved title and survey items shall be deemed Permitted Exceptions. Purchaser's failure to timely give such notice shall be deemed an

election to proceed under clause (ii) above. If Seller elects to cure any title or survey objection and fails to do so prior to Closing, Purchaser may elect, on or before the Closing Date (subject to the right to adjourn Closing described above), to proceed under clause (i) or (ii) above. Nothing contained herein shall be deemed to require Seller to take or bring any action or proceeding or any other steps or to incur any expense to remove any defect, exceptions or objection to title or to fulfill any condition of this Agreement or expend any moneys therefore, except that Seller shall be obligated to pay, satisfy or release in full (x) any mortgage(s), financing statements, municipal liens, tax liens or judgments encumbering the Property, (y) any monetary lien or encumbrance of the Property of an ascertainable amount and not made or caused by Purchaser, and (z) any exceptions or encumbrances to title of the Property which are created by Seller after the Effective Date without Purchaser's consent (collectively, "Seller Encumbrances").

(iii) Seller agrees that it will not, between the Effective Date and the Closing Date, intentionally cause any matters to affect title to the Property which would constitute further exceptions under the Title Policy.

(iv) If Seller shall be unable to convey title to the Property at the Closing in accordance with the provisions of this Agreement, Purchaser, nevertheless, may at any time accept such title to the Property as Seller can convey, without reduction of the Purchase Price or any credit or allowance on account thereof and without any claim against Seller with respect to such accepted title matters. The acceptance by Purchaser of the Deed (as hereinafter defined) shall be deemed to be full performance of and discharge of every agreement and obligation on Seller's part to be performed under this Agreement with respect to the Property, except those representations and warranties and other obligations that specifically survive the Closing Date, or which are specifically provided for in any document provided at Closing.

(v) In the event the title company is unable or unwilling to insure to Purchaser an ALTA extended owner's policy of title insurance (the "Title Policy") in the form the Title Company agreed to issue prior to the expiration of the Investigation Period in the amount of the Purchase Price, insuring Purchaser's title to the Property, subject only to the Permitted Exceptions and Purchaser elects not to proceed with the Closing of this transaction, Purchaser's sole remedy shall be to declare this Agreement terminated, at which time the Deposit shall be returned to Purchaser.

(vi) If on the date of Closing there may be any liens or encumbrances which the Seller is obligated to pay and discharge, the Seller may use any portion of the balance of the Purchase Price to satisfy the same, provided the Seller shall simultaneously either deliver to the Purchaser at the Closing instruments in recordable form and sufficient to satisfy such liens and encumbrances of record together with the cost of recording or filing said instruments or, provided that the Seller has made arrangements with the title company in advance of Closing, Seller will deposit with the title company sufficient monies, acceptable to and required by it to insure obtaining and the recording of such satisfactions and the issuance of title insurance to the Purchaser either free of any such liens and encumbrances, or with insurance against enforcement of same out of the insured Property. The existence of any such liens and encumbrances shall not be deemed objections to title if the Seller shall comply with the foregoing requirements.

(c) Survey. Purchaser may cause to be prepared a current Updated Survey. Promptly

following its receipt of the Updated Survey, Purchaser shall deliver a copy of the Updated Survey to Seller. The cost of any Updated Survey shall be borne by Purchaser.

**Section 6. Investigation Period; Due Diligence and Seller's Representations on Warranties.**

(a) **Investigation Period.** Commencing on the Effective Date and terminating as of 5:00 p.m. Eastern Standard Time on May 1, 2023 (the "Investigation Period"), **time being deemed of the essence**, Purchaser may, subject to the conditions set forth in this Agreement and except as otherwise expressly provided herein, at Purchaser's sole cost and expense in all instances (i) perform or cause to be performed a Phase I and/or Phase II Environmental Site Assessment (provided it is recommended by the Phase I) to identify any potential contamination of the Property; (ii) conduct or cause to be conducted surveys, architectural, engineering, any other inspections, studies or tests required by Purchaser; and (iii) review all documents and records relating to the Property to the extent same are in Seller's control and possession (collectively, the "Due Diligence" ), recognizing that all Due Diligence requiring access to the Property shall be governed by the Access Agreement, including its Term, as described in Section 6(c). This Agreement can be terminated by Purchaser prior to the expiration of the Investigation Period, only upon the specific terms and conditions contained below, by delivering to Seller written notice thereof terminating the Agreement. If Purchaser does not timely terminate this Agreement, as specifically permitted below, on or before the expiration of the Investigation Period (time being deemed of the essence) then, except as otherwise provided in this Agreement, Purchaser shall be unconditionally obligated to purchase the Property, subject to, and in accordance with, all of the terms and provisions of this Agreement, and the Deposit shall be non-refundable to Purchaser but not released to the Seller, except as otherwise specifically set forth in this Agreement. Purchaser shall have the continuing right at any time, and from time to time, prior to Closing to inspect the Property for the purpose of evaluating the condition thereof provided that Purchaser complies with this Section 6.

(b) **Seller Cooperation.** During the Investigation Period, Seller shall reasonably cooperate with Purchaser, at Purchaser's sole cost and expense, to the extent Seller's cooperation is reasonably required, including to assist Purchaser in obtaining public information pertaining to the Property from governmental agencies and providing its consent to all applications reasonably requested by Purchaser. Within ten (10) business days of the Effective Date, Seller shall provide to Purchaser the items described on Schedule 6(b) attached hereto, to the extent same are in Seller's actual possession.

(c) **Purchaser's Right of Entry; Scope of Investigation.** Purchaser shall comply with that certain License Agreement dated September 8, 2022 by and between Purchaser and Seller for all Due Diligence requiring access to the Property (as amended, the "Access Agreement"). In the event of a conflict between any provision of this Agreement and the Access Agreement, the Access Agreement shall govern.

(d) **Purchaser's Termination Right.** Purchaser shall have the right, in its sole and absolute discretion, to terminate this Agreement with or without cause upon written notice to Seller prior to the expiration of the Investigation Period. If this Agreement is terminated by Purchaser in accordance with this Section 6(d), Escrow Agent shall refund the Deposit to Purchaser. If Purchaser does not timely terminate this Agreement pursuant to this Section 5(d) on or before the

expiration of the Investigation Period (time being deemed of the essence) then, except as otherwise provided in this Agreement, Purchaser shall be unconditionally obligated to purchase the Property, subject to, and in accordance with, all of the terms and provisions of this Agreement, and the Deposit shall be non-refundable to Purchaser but not released to the Seller, except as otherwise specifically set forth in this Agreement.

(e) Notice and Minimization of Disruption. Purchaser shall provide Seller with written notice to be received by Seller at least seventy-two (72) hours prior to entering upon the Property to conduct physical Due Diligence, subject to the terms and conditions of the Access Agreement. In conducting the Due Diligence, Purchaser, its agents, contractors, and engineers shall use all commercially reasonable efforts to minimize disruption to Seller.

(f) Representation and Warranties. Seller represents and warrants to Purchaser, to Seller's actual knowledge, that the following are true and correct in all material respects as of the Effective Date and as of the Closing Date:

(i) This Agreement constitutes, and each document and instrument to be executed and delivered by Seller hereunder, when so executed and delivered, shall constitute subject to receipt of the PSC Approval, the legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms, covenants and conditions.

(ii) Seller is not a party to any service, management, employment or other contract affecting the Property that will survive the Closing Date, with the exception of the contracts necessary for Seller to comply with its environmental obligations under the SMP and/or Order listed on Exhibit F attached hereto.

(iii) The Property is currently vacant, and there is no party with any right to occupy, use or otherwise access the Property, whether by lease, license agreement, or other written or oral agreement.

(iv) There are no employees currently employed by Seller at the Property. There are no collective bargaining or union agreements in effect with respect to the Property. Seller will not enter into any negotiations or execute any contract with a labor union between the date hereof and the Closing related to the Property.

(v) Seller has not transferred, is not aware of any transfer of, and will not transfer ownership of or the right to any air rights or other development rights related to the Property.

(vi) Neither the entering into of this Agreement, nor the consummation of the transactions contemplated hereunder, will constitute a violation or breach by Seller of any contract, writ, order, judgment, or other instrument or agreement to which Seller is a party, or to which it is subject to by which any of its assets or properties may be affected, or of any judgment, order, writ, injunction or decree issued against or imposed upon it, or result in a violation of any applicable law, ordinance, rule or regulation of any governmental authority affecting Seller. The execution, delivery and performance of this Agreement by Seller, and the consummation of the transactions contemplated hereby, do not require Seller to obtain any consent, authorization, or approval which has not already been obtained, except for the PSC Approval.

(vii) Seller (a) is the sole owner of the Property; (b) is a duly organized and validly existing public utility qualified to conduct business in the State of New York; and (c) except as otherwise set forth in this Agreement, (d) has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; (e) has full power and authority to enter into and perform this Agreement and to enter into the documents to be executed and delivered in accordance with the terms hereof; and (f) subject to receipt of the PSC Approval, has full power and authority to consummate the transactions as contemplated herein.

(viii) Seller is not a “foreign person” as defined in the Internal Revenue Code. Seller is currently in compliance with and shall at all times during the term of this Agreement remain in compliance with the regulations of the Office of Foreign Assets Control (“OFAC”) of the Department of the Treasury (including those named on OFAC’s Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

(ix) There are no pending actions for condemnation of the Property.

(x) Seller has received no written notice: (i) that the Property or the use thereof violates any governmental law or regulation or any covenants, conditions or restrictions encumbering the Property; or (ii) from any insurance company or underwriter of any defect that would adversely affect the insurability of the Property or cause an increase in insurance premiums.

(xi) Except as disclosed in the Environmental Reports, Seller has no knowledge of any violation of Environmental Laws (as hereinafter defined) related to the Property or the presence or release of Hazardous Materials on or from the Property.

(xii) The Property is an independent unit which does not now rely on any facilities (other than facilities covered by Permitted Exceptions or facilities of municipalities or public utilities) located on any property that is not part of the Property to fulfill any municipal or other governmental requirement, or for the furnishing to the Property of any essential building systems, access, or utilities (including, but not limited to, drainage facilities, catch basins and retention ponds). No other building or other property that is not part of the Property relies upon any part of the Property to fulfill any municipal or other governmental requirement, or to provide any essential building systems or utilities.

(xiii) Other than as disclosed in the Permitted Exceptions, to Seller’s knowledge, there is no other agreement, understanding or restriction with or for the benefit of any person or entity, whether private, public or quasi-public, that will be binding upon Purchaser after Closing and which may prevent or limit in any way the current use, or Purchaser’s intended use, of the Property or for any uses allowed by current zoning regulations.

(xiv) Seller has not (i) made a general assignment for the benefit of its creditors, (ii) admitted in writing its inability to pay its debts as they mature, (iii) had an attachment, execution or other judicial seizure of any property interest which remains in effect, or (iv) taken, failed to take or submitted to any action indicating a general inability to meet its financial obligations as they accrue. To Seller’s actual knowledge, there is not pending any case, proceeding or other

action seeking reorganization, arrangement, adjustment, liquidation, dissolution or recomposition of Seller under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking appointment of a receiver, trustee, or custodian for Seller for all or any substantial part of its property.

The representations, warranties and covenants of Seller set forth herein are a material inducement to Purchaser entering into this Agreement and Purchaser is relying on the truth and accuracy of same. At Closing, Seller shall deliver a certificate to Buyer certifying that all representations, warranties and covenants of Seller set forth herein are materially true, accurate and complete to Seller's actual knowledge as of the date of Closing (the "Certificate of Representations and Warranties").

For purposes of this Section 6(f), "actual knowledge" shall mean the actual (as distinguished from implied, imputed and constructive) knowledge of the undersigned authorized signatory of Seller, or the knowledge that such individual would have after a customary and reasonable investigation into the matters in question.

The representations, warranties and covenants shall not survive beyond one hundred eighty (180) days of the Closing Date, with time being deemed of the essence.

#### Section 7. Conditions Precedent to Closing.

The Closing of this transaction on the Closing Date and Seller's obligation to sell, on the one hand, and Purchaser's obligation to acquire the Property, on the other hand, shall, in addition to any other conditions set forth herein, be conditional and contingent upon satisfaction by the other party, or waiver by the benefitted party, as applicable, of each and all of the below listed conditions; provided, however, that a party's obligation to close in accordance with this Agreement shall be conditioned solely upon those conditions below to be performed by the other party or a third party or otherwise specifically stated to be for the benefit of such party.

(a) Closing Documents and Purchase Price. Seller and Purchaser, to the extent necessary, shall each have tendered all Closing Documents to which each party is a signatory and all other required deliveries to the other and Purchaser shall have tendered the Purchase Price (subject to pro-rations) to Seller.

(b) Compliance with Agreement. Seller and Purchaser shall each have performed and complied in all material respects with all of their respective covenants and conditions contained in this Agreement, and no event shall have occurred which if it continued uncured would, with the passage of time or notice or both, constitute a default under this Agreement by either party.

(c) Representations and Warranties. The Seller's representations and warranties contained herein shall be materially true and correct as of the Effective Date and the Closing Date.

(d) Insolvency Proceedings. There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, pending against the other party that would materially and adversely affect the operation or value of the Property or the other party's ability to

perform its obligations under this Agreement.

(e) Other Pending Proceedings. There shall exist no pending or threatened action, suit or proceeding with respect to the other party before or by any court or administrative agency which seeks to restrain or prohibit, or to obtain damages or a discovery order with respect to, this Agreement or the consummation of the transactions contemplated hereby.

(f) Material Adverse Change. For the benefit of Purchaser, there shall have been no material adverse change to the Property or the operation thereof, from and after the expiration of the Investigation Period.

(g) PSC Approval. The sale of the Property shall be subject to the approval (the “PSC Approval”) of the New York State Public Service Commission (“PSC”). Purchaser shall cooperate in all respects with Seller in the filing of the requisite Section 70 Petition with the PSC, which cooperation shall include the furnishing of all information, financial or otherwise, that the PSC may require as a condition for the PSC Approval, including the filing of a joint application. Any terms and/or conditions imposed by the PSC in connection with any PSC Approval must be acceptable in all respects to Seller. In the event the PSC directly imposes upon Purchaser any post-Closing terms and/or conditions in connection with the PSC Approval, such terms and/or conditions shall be subject to Purchaser’s consent, not to be unreasonably withheld, conditioned or delayed. Seller shall provide Purchaser with written notice of the PSC Approval upon its receipt thereof. If the PSC denies the Section 70 Petition, then this Agreement shall automatically terminate whereupon the Escrow Agent will be directed by the Parties to return the Deposit to Purchaser within five (5) days following Escrow Agent’s receipt of a copy of PSC’s denial. Seller hereby covenants and agrees to submit the foregoing petition for PSC Approval within thirty (30) days of the Effective Date and, upon such submittal, to provide a true and complete copy thereof to Purchaser, and Seller shall use diligent, good faith and commercially reasonable efforts to obtain such PSC Approval.

So long as a party is not in default hereunder, if any condition to such party’s obligation to proceed with the Closing hereunder has not been satisfied as of the Closing Date, such party may, in its sole discretion, (x) terminate this Agreement by delivering written notice to the other party on or before the Closing Date, and upon such termination, the Deposit shall be returned to Purchaser, (y) elect to extend the Closing until such condition is satisfied, or (z) elect to consummate the transaction, notwithstanding the non-satisfaction of such condition, in which event such party shall be deemed to have waived any such condition. In the event such party elects to close, notwithstanding the non-satisfaction of such condition, there shall be no liability on the part of any other party hereto for breaches of representations and warranties of which the party electing to close had actual knowledge at the Closing. Notwithstanding the foregoing, the failure of a condition due to the breach of a party shall not relieve such breaching party from any liability it would otherwise have under this Agreement.

#### Section 8. Closing.

(a) Closing Date. The purchase and sale of the Property shall close the later to occur of: (i) May 31, 2023 or (ii) the date that is fifteen (15) days following Seller’s receipt of the PSC Approval (such later date, the “Closing Date”), as evidenced by the delivery of the Closing

Documents as set forth in Section 9 of this Agreement (the “Closing”). The Purchaser shall have the right to extend the Closing Date an additional thirty (30) day period (the “Outside Closing Date”) **Time shall be deemed of the essence with regards to Purchaser’s obligation to close on or before the Outside Closing Date.** If the Closing does not occur on or before the Outside Closing Date, then this Agreement shall, with notice by one party to the other, terminate except for those provisions of this Agreement which expressly survive a termination and the parties shall have the rights and remedies in connection therewith as set forth in Section 11 of this Agreement.

(b) Time and Place. The Closing shall be done via escrow through the mail, with both parties delivering to the Title Company, as settlement agent, all closing deliverables on or before 11:00 a.m. on the Closing Date or at such other place and manner as the parties may mutually agree.

Section 9. Closing Deliverables.

(a) Except as set forth below, on the Closing Date, Seller shall deliver, or cause to be delivered, to Purchaser the following fully executed documents and/or items, acknowledged where appropriate (together referred to herein as the “Closing Documents”):

(1) Deed. A bargain and sale deed without covenants containing the covenant required by Section 13 of the New York Lien Law (the “Deed”), executed and acknowledged by Seller and in proper statutory form for recording, sufficient to convey the Property to Purchaser, subject to and in accordance with the provisions of this Agreement.

(2) Transfer Taxes. The requisite real estate transfer tax returns (Form TP-584), the applicable city and state real estate transfer taxes required under Article 31 of the New York Tax Law, and such disclosures and reports as are required by applicable state and local law in connection with the transfer of the Property.

(3) Non-Foreign Status Affidavit. A Certificate of Non-Foreign Status executed by Seller in the form annexed hereto as Exhibit B;

(4) Closing Statement. A counterpart original of the closing statement setting forth the Purchase Price, the closing adjustments and application of the Purchase Price as adjusted;

(5) Title Documents. Any documents, affidavits and/or consents reasonably required by the Title Company to issue the Title Policy and omit any exceptions, other than Permitted Exceptions, therefrom;

(6) Possession. Possession of the Property shall be delivered to Purchaser upon completion of the Closing; and

(7) Brokerage Commissions. Seller shall pay any brokerage commissions due as provided in Section 13 below.

(8) Certificate of Representations and Warranties. A Certificate of Representations and Warranties pursuant to Section 6(f), if applicable.



(9)

(10) Environmental Easement. A counterpart original of the Environmental Easement in proper statutory form for recording. If the Environmental Easement is not executed prior to the Closing Date, Purchaser agrees to (i) allow for its recordation post-Closing and (ii) cause any mortgage or other encumbrance recorded on or after the Closing Date to be subordinate, and subject to, in all respects to the Environmental Easement. The provisions of this subparagraph (10) shall survive Closing.

(11) Post-Closing Access Agreement. A counterpart original of the Post-Closing Access Agreement in proper statutory form for recording.

(b) Except as set forth below, on the Closing Date, Purchaser shall deliver, or cause to be delivered, to Seller the following fully executed documents and/or items, acknowledged where appropriate:

(1) Payment of Purchase Price. At the Closing, Purchaser shall wire to Seller or Seller's attorney immediately available good funds, legal tender of the United States of America, in the amount of the Purchase Price adjusted for any pro-rations and apportionments, as herein provided, less the amount of the Deposit (exclusive of interest). All or any part of the Purchase Price may, at Seller's option, be paid or payable to one or more other person(s) or entity(ies) as Seller or Seller's attorney shall designate.

(2) Closing Costs. Purchaser shall pay at Closing all costs associated with its title examination including the premium for Purchaser's title policy, all other costs associated with the any mortgage financing, the cost of its survey, the costs of any appraisal, engineering and environmental reports and feasibility studies which it may obtain, all other inspection or due diligence costs, and all recording fees, recording fees, mortgage recording tax and sales tax. Seller shall be responsible for the applicable New York State and New York City transfer taxes. Seller and Purchaser shall each be responsible for paying their respective legal fees and costs.

#### Section 10. Apportionments.

The following items shall be prorated as of the Closing and such pro-rations shall be credited to the appropriate party in determining the amounts payable pursuant to the Purchase Price. Such pro-rations shall be made on the basis of a 360-day year, as of 12:01 a.m. on the Closing Date.

(a) Property Taxes. All real property taxes which are due and payable on or before the Closing shall be paid by Seller on or before the Closing Date and any such amounts so paid which relate to any period following the Closing shall be credited to Seller. All real property taxes for the current year, not yet due and payable, shall be prorated as of the Closing (based upon the current year's tax bill, if available, or the previous year's tax bill if the current year's tax bill is not available) and the amount thereof which relates to any period prior to the Closing shall be credited to Purchaser. Any such pro-ration of taxes for the current year shall be subject to adjustment following issuance of final tax bills. This requirement of final adjustment of tax bills shall survive Closing. Seller shall be entitled to retain for its own account any and all refunds (whenever

received) of taxes and assessments paid by Seller prior to the Closing (duly prorated as of the Closing Date), including without limitation, any of the same that shall result from pending property tax appeals relating to the Property. The net amount received (or tax adjustment realized) by either party as a result of a tax protest for the tax period comprising the Closing shall be prorated between the parties as of the Closing. To the extent any refund for a period prior to Closing is received by Purchaser, such refund shall be promptly paid to Seller. The provisions of this subparagraph 10(a) shall survive Closing.

(b) Assessments. All assessments, special assessments and other like charges actually imposed against the Property, or any part thereof, by reason of roadways, utility lines, streets, alleys or other improvements in existence, under construction or planned and which are due and payable as of the Closing Date shall be prorated to such date. All such assessments, special assessments and other charges affecting the Property and payable after the Closing Date shall be the sole responsibility of Purchaser. All refunds of assessments paid by Seller prior to the Closing Date shall be retained by Seller. To the extent any refund for a period prior to Closing is received by Purchaser, such refund shall be promptly paid to Seller. Seller hereby represents that it has not received any notice of pending or future assessments as of the Effective Date. The provisions of this subparagraph 10(b) shall survive Closing.

The foregoing pro-rations shall be made as of the Closing Date based on the best information and estimates available to the parties at the time. Such pro-rations shall be considered final and binding for all purposes absent material mistake of fact. If any of the pro-rations described in this Section 10 cannot be calculated accurately on the Closing Date, then the same shall be calculated as soon as reasonably possible thereafter and either party owing the other party a sum of money based on such subsequent pro-rations shall promptly pay said sum to the other party. A final closing adjustment shall be made by Purchaser and Seller within thirty (30) days after the necessary information is available to the parties, and to the extent that any additional payment or repayment is indicated by the final adjustment, the payment or repayment shall be made within thirty (30) days after the final adjustment is made. If a dispute shall arise between Purchaser and Seller regarding the final closing adjustments and the parties are unable to resolve the same, the matter shall be referred to arbitration at the New York City, New York office of the American Arbitration Association in accordance with its then existing Commercial Arbitration Rules for Arbitration, and the determination of such arbitrator shall be final and binding upon the parties. The fees and expenses shall be borne by the parties equally. If either party owing funds to the other after the Closing Date pursuant to this Section does not remit them within thirty (30) days after demand therefore (which demand shall also include invoices or other appropriate documentation in support thereof), such funds shall thereafter bear interest at a "Default Rate" equal to two percent (2%) above the interest rate as announced from time to time by JPMorgan Chase Bank as its "prime rate", as the same shall fluctuate from day to day, or, if lesser, the maximum rate permitted by applicable New York law.

#### Section 11. Default and Remedies.

A. PURCHASER'S DEFAULT. IF PURCHASER IS IN DEFAULT OF THIS AGREEMENT AND SELLER ELECTS TO TERMINATE THIS AGREEMENT DUE TO PURCHASER'S DEFAULT, THE DEPOSIT (PLUS ACCRUED INTEREST, IF ANY) SHALL BE FORFEITED BY PURCHASER AND RETAINED BY SELLER, SUBJECT TO AND IN

ACCORDANCE WITH THE PROVISIONS OF THE ESCROW AGREEMENT, AND BOTH PARTIES SHALL THEREAFTER BE RELEASED FROM ALL FURTHER OBLIGATIONS UNDER THIS AGREEMENT EXCEPT THOSE THAT EXPRESSLY SURVIVE TERMINATION OF THIS AGREEMENT.

PURCHASER AND SELLER ACKNOWLEDGE THAT SELLER'S DAMAGES WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE IN THE EVENT OF PURCHASER'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT AND THAT THE DEPOSIT IS A REASONABLE ESTIMATE OF SUCH DAMAGES. THE DEPOSIT (PLUS ACCRUED INTEREST, IF ANY) SHALL, THEREFORE, BE LIQUIDATED DAMAGES TO SELLER AND RETENTION THEREOF SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY FOR PURCHASER'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT IN THE EVENT SELLER ELECTS TO TERMINATE THIS AGREEMENT. SELLER EXPRESSLY WAIVES THE REMEDIES OF SPECIFIC PERFORMANCE AND ADDITIONAL DAMAGES.

B. SELLER'S DEFAULT. IF SELLER IS IN DEFAULT OF OR HAS BREACHED ANY COVENANT CONTAINED IN THIS AGREEMENT, PURCHASER MAY ELECT:

(i) TO TERMINATE THIS AGREEMENT, IN WHICH CASE THE DEPOSIT (PLUS ACCRUED INTEREST, IF ANY) AND THE REASONABLE EXPENSES OF EXAMINATION OF TITLE TO THE PREMISES AND OF ANY SURVEY AND SURVEY INSPECTION CHARGES SHALL BE RETURNED TO PURCHASER AND, IF THE EVENT THAT PRECIPITATED SAID TERMINATION WAS SOLELY DUE TO A WILLFUL DEFAULT BY SELLER, ALL OTHER REASONABLE AND DOCUMENTED THIRD-PARTY COSTS AND EXPENSES OF PURCHASER INCURRED IN CONNECTION WITH THE TRANSACTIONS DETAILED IN THIS AGREEMENT UP TO A MAXIMUM OF \$900,000; OR,

(ii) TO TREAT THIS AGREEMENT AS BEING IN FULL FORCE AND EFFECT AND, EXCEPT AS SPECIFICALLY OTHERWISE PROVIDED IN THIS AGREEMENT, PURCHASER SHALL HAVE THE RIGHT ONLY TO AN ACTION FOR SPECIFIC PERFORMANCE. IN THE EVENT THAT SPECIFIC PERFORMANCE IS UNAVAILABLE THEN, IN ADDITION TO TERMINATING THIS AGREEMENT IN ACCORDANCE WITH CLAUSE (i) ABOVE (WHEREUPON THE DEPOSIT SHALL BE PROMPTLY RETURNED TO PURCHASER), SELLER SHALL PROMPTLY REIMBURSE PURCHASER FOR ALL OTHER REASONABLE AND DOCUMENTED THIRD-PARTY COSTS AND EXPENSES OF PURCHASER INCURRED IN CONNECTION WITH THE TRANSACTIONS DETAILED IN THIS AGREEMENT. THE PARTIES SHALL THEREAFTER BE RELIEVED OF ANY OBLIGATIONS UNDER THIS AGREEMENT EXCEPT THOSE THAT EXPRESSLY SURVIVE TERMINATION. PURCHASER EXPRESSLY WAIVES THE RIGHT TO DAMAGES OF ANY NATURE EXCEPT AS EXPLICITLY SET FORTH IN THIS AGREEMENT.

Section 12. Condemnation.

If prior to Closing, any portion of the Property shall become the subject of any proceedings,

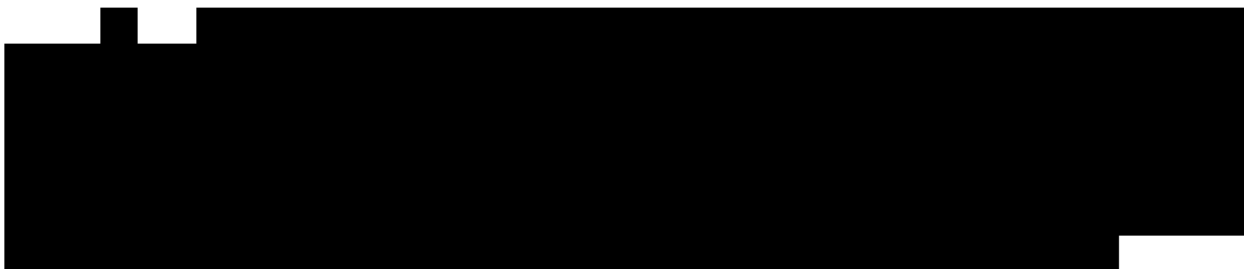
judicial, administrative, or otherwise, by eminent domain, condemnation or otherwise (a “Taking”), Seller shall promptly notify Purchaser thereof. If such taking constitutes (x) fifteen (15%) percent or more of the Property or (y) any portion of the Property whose loss would result in an impairment to the Property’s access to a public rights of way (as applicable, a “Material Taking”), then Purchaser, at its option, may within fifteen (15) days after receipt of such notice elect to terminate this Agreement by giving Seller written notice thereof in which event the parties hereto shall be relieved and released of and from any further duties, obligations, rights, or liabilities hereunder except those obligations which expressly survive termination. If the Closing Date is within the aforesaid fifteen (15) day period, then the Closing shall be extended to the next business day following the end of said fifteen (15) day period. If the Taking does not constitute a Material Taking, this Agreement shall remain in full force and effect and the purchase contemplated herein shall be consummated with no further adjustment or modification of the Purchase Price or otherwise, and, at the Closing, Seller shall assign, transfer, and set over to Purchaser all the right, title, and interest of Seller in and to any condemnation awards or eminent domain awards as a result of the Taking.

### Section 13. Brokerage Commissions.

Purchaser hereby represents and warrants to Seller that Purchaser has not dealt with any broker in connection with the transaction contemplated in this Agreement other than Jones Lang LaSalle, Inc. (the “Broker”). Each party hereby agrees to defend, indemnify and hold the other party harmless from and against any and all claims of any person or entity, other than the Broker, claiming a brokerage fee or commission through the Purchaser. Seller agrees to pay the Broker a commission as per a separate agreement with the Broker. The provisions of this Section 13 shall survive Closing.

### Section 14. Environmental Requirements.

(a) Engineering and Institutional Controls; Future Sale/Transfer Conditions. Purchaser acknowledges and agrees that upon Closing, it shall be obligated to comply with the Environmental Easement and related exhibits, including but not limited to those obligations set forth in the SMP as the responsibility of the Property owner (with Purchaser’s post-Closing obligations to be generally summarized in Table 4 thereof), and as may be amended with the prior approval of NYSDEC. Purchaser further acknowledges and agrees that the Property is subject to certain engineering controls, as more particularly described in the SMP, that must remain on the Property unless decommissioning or removal is approved by NYSDEC. Purchaser also acknowledges and agrees that Seller will likely have certain post-Closing obligations at the Property pursuant to the SMP. To the extent that Seller has any continuing obligations with respect to the engineering controls and/or the Property pursuant to the SMP, the Order, or any future requirements or directives of any governmental agency (collectively, “Regulatory Obligations”), Purchaser shall timely permit Seller, its consultants, representatives, and agents access to the Property to fulfill such Regulatory Obligations pursuant to the Post-Closing Access Agreement (hereinafter defined). The parties shall negotiate in good faith and agree upon prior to the expiration of the Investigation Period, a post-Closing access agreement, in recordable form, allowing Seller access to the Property necessary to perform any Regulatory Obligations following the Closing Date (the “Post-Closing Access Agreement”).



Section 15. Miscellaneous.

(a) Entire Agreement. This Agreement supersedes all prior discussions, agreements and understandings between Seller and Purchaser and constitutes the entire agreement between Seller and Purchaser with respect to the transaction herein contemplated. This Agreement may be amended or modified only by a written instrument executed by Seller and Purchaser.

(b) Waiver. Each party hereto may waive any breach by the other party of any of the provisions contained in this Agreement or any default by such other party in the observance or performance of any covenant or condition required to be observed or performed by it contained herein; PROVIDED, ALWAYS, that such waiver or waivers shall be in writing, shall not be construed as a continuing waiver, and shall not extend to or be taken in any manner whatsoever to affect any subsequent breach, act or omission or default or affect each party's rights resulting therefrom. No waiver will be implied from any delay or failure by either party to take action on account of any default by the other party. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

(c) Further Assurances. Each party hereto shall do such further acts and execute and deliver such further agreements and assurances as the other party may reasonably require to give full effect and meaning to this Agreement.

(d) Notices. All notices and demands given or required to be given by any party hereto to any other party ("Notices") shall be in writing and shall be delivered in person or sent by electronic mail and with concurrent mailing by U.S. Postal Service delivery, or by a reputable overnight carrier that provides a receipt, such as Federal Express or UPS, or by registered or certified U.S. mail, postage prepaid, addressed as follows (or sent to such other address as any party shall specify to the other party pursuant to the provisions of this Section):

TO SELLER:

Michael E. Guerin  
Manager Real Estate and Workplace Strategy  
40 Sylvan Road  
Waltham, Massachusetts 02451  
E-mail: Michael.Guerin@nationalgrid.com

and

Bernard M. Soebke, Esq.  
Senior Counsel  
National Grid  
175 East Old Country Road  
Hicksville, New York 11801  
E-mail: [Bernard.Soebke@nationalgrid.com](mailto:Bernard.Soebke@nationalgrid.com)

and

Paul A. Michels, Esq.  
Cullen and Dykman LLP  
One Battery Park Plaza, 34<sup>th</sup> Floor  
New York, New York 10004  
E-mail: [pmichels@cullenllp.com](mailto:pmichels@cullenllp.com)

TO PURCHASER:

Megan Robert, Cori Helms, Chris Hampton, and Jeremiah Kane  
Prologis, L.P.  
c/o Prologis, Inc.  
1800 Wazee Street, Suite 500  
Denver, CO 80202  
E-mail: [mrobert@prologis.com](mailto:mrobert@prologis.com), [chelms@prologis.com](mailto:chelms@prologis.com), and [jkane@prologis.com](mailto:jkane@prologis.com)

With a contemporaneous copy to:

Milos Markovic, Esq  
Greenberg Traurig  
77 West Wacker Drive, Suite 3100  
Chicago, Illinois 60601  
E-mail: [markovicm@gtlaw.com](mailto:markovicm@gtlaw.com)

All Notices delivered in the manner provided herein shall be deemed given upon actual receipt (or attempted delivery if delivery is refused). Any notice or other communication under this Agreement may be given on behalf of a party by an attorney for such party.

(e) Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns, provided, however, that neither party may assign this Agreement, in whole or in part without the prior written consent of the other party. Notwithstanding the foregoing, Purchaser may assign this Agreement without Seller's consent, but upon written notice to Seller, to an Affiliate (as hereinafter defined) and either party may assign this Agreement without the other's consent to effect an Exchange (as hereinafter defined) pursuant to Section 15(r). Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective legal

representatives, successors, assigns, heirs and devisees of the parties. For the purposes of this Section, the term “Affiliate” means (a) an entity that directly or indirectly controls, is controlled by or is under common control with the Purchaser, or (b) an entity at least a majority of whose economic interest is owned by Purchaser; and the term “control” means the power to direct the management of such entity through voting rights, ownership or contractual obligations

(f) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of New York and the venue of any legal action filed in connection herewith shall be in Kings County.

(g) No Third Parties Benefited. The parties do not intend to confer any benefit on any person, firm, or corporation other than the parties to this Agreement, except as and to the extent otherwise expressly provided herein.

(h) Legal Fees. In the event either party hereto fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the party not prevailing in such dispute shall pay any and all actual, out-of-pocket costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable legal fees.

(i) Construction. The section titles or captions in this Agreement are for convenience only and shall not be deemed to be part of this Agreement. All pronouns and any variations of pronouns shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the parties may require. Whenever the terms referred to herein are singular, the same shall be deemed to mean the plural, as the context indicates, and vice versa. This Agreement shall not be construed as if it had been prepared only by Purchaser or Seller but rather as if both Purchaser and Seller had prepared the same. If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

(j) No Recording. Purchaser covenants and agrees not to record this Agreement or any memorandum of this Agreement and agrees that any such recording by Purchaser shall be deemed a material default hereunder; provided, however, that Purchaser shall be entitled to record a notice of *lis pendens* in connection with the institution of an action of specific performance pursuant to Section 11(b).

(k) Confidentiality and Indemnification. Purchaser covenants and agrees that, except as required by law: (i) all written information provided to it by Seller in connection with the Property or resulting from Purchaser's inspections of the Property and review of relevant materials will be held in strict confidence by it, its attorneys, accountants, consultants, lenders, business associates (including potential equity partners), agents and employees, (ii) upon Seller's written request, Purchaser will return all such written information to Seller in the event the transaction contemplated by this Agreement is not consummated, and, (iii) except as provided for in this Agreement or any Closing Document, Seller has made no representation or warranty regarding the

accuracy or completeness of the materials provided to Purchaser and Purchaser has conducted Purchaser's own due diligence inquiry with respect to the Property. Purchaser further agrees to indemnify and hold Seller harmless from and against any and all claims or damages, including reasonable attorneys' fees, resulting from Purchaser's breach of the covenant contained in this Section 15(k). The indemnification contained herein shall, without limitation, survive the termination of this Agreement. Purchaser acknowledges that if this provision is breached, Seller could not be made whole by monetary damages alone. Accordingly, the Seller, in addition to any other remedy to which it may be entitled to by law or in equity, shall be entitled to injunctive relief. No remedy or election shall be deemed exclusive but, whenever possible, shall be cumulative with all remedies available at law or in equity.

(l) Consents and Approvals. Both Seller and Purchaser represent and warrant to the other that each have obtained all requisite consents and approvals (other than the Approvals referenced in Section 6(c) hereof), whether required by internal operating procedures or otherwise, for entering into this Agreement and closing the transaction contemplated hereby.

(m) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. PDF email signatures shall have the same binding effect as original signatures with regards to this Agreement. No party hereto shall raise the use of a PDF email to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a PDF email as a defense to the formation of a legal, valid and binding contractual obligation, and each such party forever waives any defense.

(n) Jury Trial Waiver. **PURCHASER AND SELLER EACH WAIVE ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION WITH RESPECT TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

(o) Exhibits. All of the Exhibits referenced in this Agreement are attached hereto and incorporated as part of this Agreement and shall have the same meaning as if they were incorporated fully within the text of this Agreement.

(p) No Liability. Notwithstanding anything to the contrary set forth in this Agreement, the Closing Documents or any other documents contemplated by this transaction (collectively, the "Transaction Documents"), in the event Seller is in default of or has breached any covenant contained in the Transaction Documents, Purchaser will seek redress, if any, solely from Seller's interest in the Property, including the proceeds of the sale thereof and no other property or assets of Seller or Seller's Affiliates or any of their successors and assigns shall be subject to levy, execution or other enforcement procedure for the satisfaction of any claim under the Transaction Documents, whether arising by contract, tort, or otherwise.

(q) Execution. This Agreement shall not be binding or effective unless and until it has been duly executed and delivered by Seller and Purchaser.

(r) Section 1031 Exchange. Each party may consummate the purchase and sale of the Property as part of a so-called like kind exchange (the "Exchange") pursuant to Section 1031 of




the Internal Revenue Code of 1986, as amended (the “Code”), provided that: (a) the Closing shall not be delayed or affected by reason of the Exchange nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to the exchanging party's obligations under this Agreement; (b) the exchanging party shall effect the Exchange through an assignment of this Agreement, or its rights under this Agreement, to a qualified intermediary; (c) the non-exchanging party shall not be required to take an assignment of the purchase agreement for the relinquished property or be required to acquire or hold title to any real property for purposes of consummating the Exchange; and (d) the exchanging party shall pay any additional costs that would not otherwise have been incurred by either party had the exchanging party not consummated its purchase through the Exchange. The non-exchanging party shall not by this Agreement or acquiescence to the Exchange (x) have its rights under this Agreement affected or diminished in any manner, or (y) be responsible for compliance with or be deemed to have warranted to the exchanging party that the Exchange in fact complies with Section 1031 of the Code.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

SELLER:

**THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By: \_\_\_\_\_  
Steven Doben  
Authorized Signatory

PURCHASER:

**PROLOGIS, L.P.,**  
a Delaware limited partnership

By: Prologis Inc., its general partner

By: \_\_\_\_\_  
Jeremiah Kane  
Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

SELLER:

**THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By: \_\_\_\_\_  
Steven Doben  
Authorized Signatory

PURCHASER:

**PROLOGIS, L.P.,**  
a Delaware limited partnership

By: Prologis Inc., its general partner

By: \_\_\_\_\_  
Jeremiah Kane  
Authorized Signatory

**SCHEDULE A**

**LEGAL DESCRIPTION**

(immediately follows)

**LEGAL DESCRIPTION**

**PARCEL I: (NORTHERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of a certain small creek or arm of the main Coney Island Creek at the northwesterly angle of a piece of Salt Meadows, formerly belonging to Richard Squires and adjoining a piece of Salt Meadows, formerly owned by Nicholas R. Stillwell; and

RUNNING FROM THENCE along the above mentioned Salt Meadows, formerly of Richard Squires, South 86 degrees 30 minutes East 512 and 6 inches to another small creek;

THENCE along the last mentioned small creek North 59 degrees East 95 feet more or less to the New York and Sea Beach Railroad;

THENCE along the westerly side of the said railroad North 15 minutes West 133 feet to Salt Meadows of other parties;

THENCE partly along the above mentioned Salt Meadows of other parties and partly along another creek North 39 degrees West 305 feet, more or less, to a small ditch;

THENCE partly along said small ditch and partly along the above mentioned Salt Meadows, formerly owned by Nicholas R. Stillwell South 46 degrees 15 minutes 548 feet 6 inches to the point or place of BEGINNING.

EXCEPTING and reserving from the above described premises West 12<sup>th</sup> Street as now opened through said premises as a public street

**PARCEL II: (SOUTHWESTERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of Coney Island Creek where the same is intersected by the westerly side of West 12<sup>th</sup> as now opened; and

THENCE RUNNING northerly along the westerly side of West 12<sup>th</sup> Street, 212 feet 4-3/4 inches or thereabouts to land formerly owned by Richard Squires;

THENCE northerly 77 degrees, 45 minutes West 170 feet, 10-1/2 inches more or less, along said Squires' land to said Coney Island Creek; and

THENCE southwesterly southerly and southeasterly all along said creek to the place of BEGINNING.

**PARCEL III: (SOUTHERLY PART OF LOT 106)**

ALL that other certain plot, piece or parcel of land, situate, lying and being in the said Borough of, City and County of State of North side of said Coney Island Creek, bounded and described as follows:

**LEGAL DESCRIPTION**

Bounded on the North by said land, formerly owned by Robert Squires, on the East by New York and Sea Beach Railroad and southeast, South and southwest by said Coney Island Creek and on the West by West 12<sup>th</sup> Street.

**PARCEL IV: (SOUTHEASTERLY PART OF LOT 106)**

ALL that other certain plot, piece or parcel of land, situate, lying and being in the said Borough of, City, County and State of New York on the North side of said Coney Island Creek, bounded and described as follows:

BEGINNING at a point where the northeasterly side of New York, and Sea Beach Railroad intersects the southerly line of said land, formerly of Richard Squires;

RUNNING FROM THENCE southerly along the easterly side of said New York and Sea Beach Railroad Company 20 feet 4 inches to the northwesterly side of said Coney Island Creek;

THENCE northeasterly along said creek 26 feet to said land formerly of Richard Squire;

THENCE northwesterly along the said land 21 feet 9 inches to the place of BEGINNING.

**PARCEL V: (SOUTHEASTERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point formed by the intersection of the easterly line of the right of way of the New York and Sea Beach Railroad Company with the center line of a small creek separating the land hereby intended to be conveyed from land, formerly of Henry Van Sicklen, now or late of Kempffe;

THENCE in an easterly direction along the center line of said small creek, following the windings and bendings thereof to the northerly side of bank of Coney Island Creek;

THENCE southwesterly along said northerly side of bank of the Coney Island Creek as it winds and bends to land formerly of John Cole, Garrett Stryker now or late of one Lawless;

THENCE westerly along the division line between the land hereby conveyed and said land of Lawless to the easterly line of the Right of Way of the New York and Sea Beach Railroad Company;

THENCE northerly along the said easterly line of Right of Way of the New York and Sea Beach Railroad Company to the point or placed of BEGINNING.

**PARCEL VI: (SOUTHERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point formed by the intersection of the westerly line of the Right of Way of the New York and Sea Beach Railroad Company with the division line between the land hereby intended to be conveyed and land formerly of John Cole formerly Garrett Stryker, now or late of one Lawless;

**LEGAL DESCRIPTION**

THENCE westerly along the said division line to the easterly line of West 12<sup>th</sup> Street, as now opened;

THENCE North along the said easterly line of West 12<sup>th</sup> Street as now opened until the said easterly line of West 12<sup>th</sup> Street is intersected by the division line between land hereby intended to be conveyed and land formerly of Mary Parker, formerly of Cornelius D. Stryker;

THENCE easterly along said division line until said division line intersects the westerly line of the Right of Way of the New York and Sea Beach Railroad Company;

THENCE southerly along the westerly line of the Right of Way of the New York and Sea Beach Railroad Company to the point of BEGINNING.

**PARCEL VII: (WESTERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point where the westerly side of West 12<sup>th</sup> Street, as now opened, would be intersected by the division line between the premises hereby intended to be conveyed and land now or late of Lawless;

RUNNING THENCE southerly along said side of West 12<sup>th</sup> Street to the division line between land hereby intended to be conveyed and land now or late of D. Stryker.

THENCE westerly along said last mentioned division line to the easterly line of the westerly branch of the Main Creek;

THENCE northerly along said line of said creek 81 feet 6 inches more or less to the aforesaid division line between land hereby intended to be conveyed and land now or late of Lawless; and

THENCE easterly along said last mentioned division line to the westerly side of West 12<sup>th</sup> Street, at the point or place of BEGINNING.

**PARCEL VIII: (NORTHWESTERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point which is distant 591 and 62/100 feet southerly from the southerly line of Avenue Z, measured along the westerly line of West 11<sup>th</sup> Street and 58 and 31/100 feet westerly from the westerly line of West 11<sup>th</sup> Street measured at right angles thereto, said point being the northerly boundary line of the meadow and the southerly boundary line of Lot Number 38 of the West Meadow Bank lots now or formerly belonging to George A. Browning;

THENCE along said meadow bank Lot Number 38, South 45 degrees 41 minutes 15 seconds East, 76 and 15/100 feet to a point in the westerly boundary of land now or formerly of John Van Siclen;

THENCE along said land formerly of Van Siclen, South 35 degrees 17 minutes 3 seconds East, 392 and 39/100 feet to the meadow land formerly of Derick Stryker;

**LEGAL DESCRIPTION**

THENCE along said Stryker's Meadow, South 49 degrees 41 minutes 33 seconds West 551 and 79/100 feet to the center of a small creek or ditch running into Coney Island Creek;

THENCE along the center of said ditch or creek, South 28 degrees 12 minutes 57 seconds West 81 and 50/100 feet more or less to the northeasterly side of line of Coney Island Creek;

THENCE along said creek northwesterly to the easterly line of land conveyed by George Stillwell to the Sea Beach Railway Company by deed recorded in the Office of the Register of the County of Kings on March 31<sup>st</sup>, 1905 in Liber 3133 of Conveyances, page 420;

THENCE northeasterly North 27 degrees 5 minutes 27 seconds East along the easterly line of said lands of the said Railway Company, 181 and 34/100 feet to a point which is distant 159 and 25/100 feet East from the easterly line of West 13<sup>th</sup> Street if the said line were extended South of North Canal Avenue and measure at right angles to said line of West 13<sup>th</sup> Street and 149 and 2/100 feet South from the northeasterly line of North Canal Avenue measured at right angles thereto, the said point being the southerly extremity of certain land conveyed by Frank Bailey and Wife and Edward C.M. Fitzgerald and wife to the Sea Beach Railway Company by deed dated March 29<sup>h</sup>, 1909 and recorded in the Office of the Register of the County of Kings on March 31<sup>st</sup>, 1909 in Liber 3133 page 425, and also conveyed by the said Stillwell to the said Railway Company by deed recorded in said Register's Office on March 31, 1909 in Liber 3133 page 419;

THENCE northerly along the easterly line of said land North 27 degrees 5 minutes 27 seconds East 417 and 15/100 feet to the point of a curve, whose radius is 5017 and 50/100 feet and whose radial lines extend westerly therefrom;

THENCE along said curved line northerly 118 and 39/100 feet more or less to the point or place of BEGINNING.

EXCEPT any portion of the premises described above lying in the boundary line of West 11<sup>th</sup> Street on the City Map as now legally open.

**PARCEL IX: (NORTHEASTERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Brooklyn of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point or angle formed by the northerly side of line of the main Coney Island Creek and the easterly side of line of a certain arm or branch of said main creek;

RUNNING THENCE North 60 degrees 20 minutes East 175 feet 9 inches along the aforesaid northerly line of said main creek;

THENCE still along the same creek North 55 degrees 15 minutes East, 385 feet 3 inches to a certain smaller creek;

THENCE North 27 degrees 15 minutes West 33 feet;

THENCE South 80 degrees 15 minutes West, 100 feet;



**LEGAL DESCRIPTION**

THENCE North 74 degrees 45 minutes West, 136 feet;

THENCE North 40 degrees West 213 feet;

THENCE South 52 degrees West 52 feet;

THENCE North 86 degrees 30 minutes West 114 feet;

THENCE South 46 degrees West 61 feet all along the westerly line of the above mentioned smaller creek;

THENCE North 36 degrees 6 minutes West 146 feet 6 inches to the easterly line of the New York and Sea Beach Railroad;

THENCE along said line South 15 minutes East, 358 feet more or less to a certain point and land of other owners;

THENCE along said land South 38 degrees East, 38 feet to a certain point or angle formed in the easterly or northerly side of line of the first mentioned arm or branch of the aforesaid main creek;

THENCE along the easterly line of said branch of said main creek South 70 degrees 45 minutes East, 136 feet;

THENCE South 17 degrees 15 minutes East, 139 feet to the point or place of BEGINNING.

**PARCEL X: (NORTHWESTERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the point or intersection of the south line of Circumferential Parkway and the west line of West 11<sup>th</sup> Street;

THENCE easterly along the south line of Circumferential Parkway, 62.97 feet to the east line of West 11<sup>th</sup> Street;

THENCE southerly deflecting 72 degrees 20 minutes 30 seconds to the right along the east line of West 11<sup>th</sup> Street and its straight prolongation 140.79 feet to a point in the former south line of Canal Avenue North;

THENCE westerly deflecting 90 degrees to the right along the former south line of Canal Avenue North, 60 feet to a point;

THENCE northerly deflecting 90 degrees to the right along the southerly prolongation of and the west line of West 11<sup>th</sup> Street, 159.89 feet to the point or place of BEGINNING.

**LEGAL DESCRIPTION**

**PARCEL XI: (EASTERLY PART OF LOT 106)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the point formed by the intersection of the northerly side of Coney Island Creek with the easterly side of lands now of the Brooklyn Borough Gas Company, and known as Lot 106 of Block 7247 on the Tax Map of the Borough of Brooklyn:

RUNNING THENCE northerly along said easterly side of lands now of the Brooklyn Borough Gas Company, and along the continuation in a straight line of said easterly side of said lands to the southerly side of Shore Parkway;

THENCE in a general southeasterly direction to an intersection with the westerly side of other lands now of the Brooklyn Borough Gas Company, and known as Lot 265 of Block 7247 on the Tax Map of the Borough of Brooklyn;

THENCE southerly form 626 feet more or less along said westerly side of said other lands of the Brooklyn Borough Gas Company, parallel to and 35 feet more or less East of the easterly side of lands now of the Brooklyn Borough Gas Company and known as Lot 106 of Block 7247 on the Tax Map of the Borough of Brooklyn to the northerly side of Coney Island Creek;

THENCE southwesterly along the northerly side of Coney Island Creek to the point or place of BEGINNING.

**SCHEDULE 6(B)**

**DUE DILIGENCE MATERIALS**

- (a) Tax Statements. Copies or summary of ad valorem tax statements relating to the Property for the current year or other current tax period (if available) and value renditions for the twenty-four (24) months preceding the Effective Date;
- (b) Environmental Reports. The Environmental Reports for the period commencing on April 8, 2004 and any reasonably available and material reports in Seller's possession prior to that date.
- (c) Survey Documents. Any existing site plans or surveys, including any ALTA "as-built" survey of the Property;
- (d) Notices of Violations. Notices from any insurance company or underwriter of any effect that would adversely affect the insurability of the Property or cause an increase in insurance premiums;
- (e) Litigation. Notices of any action or proceeding pending or, to Seller's knowledge, threatened relation to the Property, including, without limitation, any condemnation or bankruptcy proceedings, which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement; and
- (f) Other. Any other documents or information as may be reasonably requested by Purchaser related to the Property.

**EXHIBIT A**

**FORM OF ESCROW AGREEMENT**

December \_\_\_\_, 2022

Royal Abstract of New York LLC  
125 Park Avenue  
New York, New York 10017  
Attn: Martin Kravet

Gentlemen:

Pursuant to a Purchase and Sale Agreement, dated the date hereof (the “Contract”), between **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation (the “Seller”) and **PROLOGIS, L.P.**, a Delaware limited partnership (the “Purchaser”) with respect to the sale of certain property in known as 2731 West 12<sup>th</sup> Street, Brooklyn, New York (the “Property”), we request you to act as escrow agent (“Escrowee”) to hold in escrow in an interest bearing and insured account with Capital One the deposit made under the Contract by Purchaser as follows: (i) within three (3) business days following the Effective Date (as such term is defined in the Contract), the amount of One Million Fifteen Thousand and 00/100 (\$1,015,000.00) Dollars (the “Initial Deposit”) and (ii) within three (3) business days of the expiration of the Investigation Period (as such term is defined in the Contract), the amount of Two Million and 00/100 (\$2,000,000.00) Dollars (the “Additional Deposit”, and together with the Initial Deposit and all interest accruing thereon, the “Deposit”), on the following terms and conditions:

1. Escrowee shall deliver the Deposit (plus accrued interest, if any) to Seller or to Purchaser, as the case may be, in accordance with the following:

- (a) To the Seller upon the closing contemplated by the Contract; or
- (b) To the Purchaser upon receipt of a copy of the termination of the Contract by Purchaser, stating that the Contract has been terminated by Purchase pursuant to Section 5, Section 6, section 7(f) or Section 12 of the Contract.
- (c) Subject to Paragraphs 2 and 3 hereof, to the Seller upon receipt of written demand therefore signed by Seller, stating that Purchaser has defaulted in performance of its obligations under the Contract, that Seller is entitled to such payment under the Contract; or
- (d) Subject to Paragraphs 2 and 3 hereof, to Purchaser upon receipt of written demand therefore signed by Purchaser, stating that any of the events described in Paragraph 1(b) hereof has occurred and that Purchaser is entitled under the Contract to the return of the Deposit.

2. Upon receipt of a demand for the Deposit made by Seller or Purchaser pursuant to subparagraphs 1(b) and 1(c), inclusive, Escrowee shall promptly give notice to the other party of such demand. If Escrowee does not receive an objection from the other party to the proposed payment within 10 days after the giving of such notice, Escrowee is hereby authorized to make

such payment. If Escrowee receives an objection from the other party to the proposed payment within such period, Escrowee shall send a copy thereof to the party who made the demand.

3. If conflicting demands are made by the parties in connection with this Agreement or if Escrowee, in good faith, is in doubt as to the action it should take, Escrowee, acting solely as a stakeholder, shall have the right to commence an interpleader action in the Supreme Court for Kings County and/or to take no further action except in accordance with joint instructions from Seller and Purchaser or in accordance with the final judgment of the court in such action or the final judgment of a court of competent jurisdiction entered in a proceeding in which Seller and Purchaser are named as parties, directing the disbursement of the Deposit. In addition, if Escrowee shall receive a notice from either Seller or Purchaser to the effect that litigation between Seller and Purchaser over entitlement to the Deposit has been commenced, Escrowee shall, on notice to Seller and Purchaser, deposit the Deposit with the Clerk of the Court in which such litigation is pending.

4. (a) Escrowee shall be under no obligation to take any action in respect of the Deposit or pursuant to this Agreement which, in its opinion, shall be likely to involve it in any expense or liability, unless and until Escrowee shall be furnished with an indemnity satisfactory to it against such liability and expense in connection with the taking of such action.

(b) Escrowee shall be entitled to rely, for all purposes of this Agreement upon any notice, demand or other communication given to it pursuant to this Agreement with respect to the matters stated therein, and each such notice, demand or communication shall be full authority to Escrowee for any action taken, suffered or omitted in reliance thereon. Escrowee is not responsible or liable in any manner for the sufficiency, correctness, genuineness or validity of any writing delivered to it in accordance with this Agreement and may assume that any person signing such writing is authorized to do so.

(c) Escrowee shall not be held liable by reason of its inability to make any required disbursement from the Deposit because of any insufficiency of the Deposit resulting from any loss on the account in which the Deposit is held pursuant to this Agreement.

(d) Escrowee shall not be answerable or accountable except for its bad faith or willful misconduct, and Escrowee shall not be liable for any error of judgment made by it in good faith.

(e) Escrowee shall charge no fee for its services under this Agreement.

(f) Escrowee in entering into this Agreement assumes no obligations under or with respect to the Contract and is not bound by any of the terms thereof.

(g) Escrowee may act or refrain from acting in respect of any matter referred to in this Agreement in full reliance upon and with the advice of counsel selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from acting upon the advice of such counsel, except in the case of subparagraph (d) above.

5. Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Deposit or any other dispute between the parties.

6. This Escrow Agreement shall create no right in any person or entity other than the parties hereto and their respective successors and permitted assigns, and no third party shall have the right to enforce or benefit from the terms hereof.

7. Except for claims under Section 4(d) hereof, Seller and Purchaser shall jointly and severally indemnify and hold harmless Escrowee from any damage, cost, liability or expense (including without limitation reasonable attorneys' fees and disbursements either paid to retained attorneys or representing the fair value of legal services rendered by Escrowee) which Escrowee may incur by acting hereunder, without prejudice to any right either party may have against the other party for any such damage, cost, liability or expense.

8. All notices, demands, requests and other communications required to be given or which may be given hereunder shall be in writing and shall be given in accordance with the provisions of the Contract.

9. This Agreement constitutes the entire agreement with respect to the terms and conditions of this escrow, and no modification of this Agreement shall be binding unless in writing and signed by the party to be charged.

10. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, except that the within escrow shall not inure to the benefit of any of the assigns of Purchaser or Seller unless and until Escrowee shall have received a duly executed assignment and assumption (in form satisfactory to Escrowee) of all of the assignor's obligations hereunder.

[SIGNATURE PAGE FOLLOWS]

Very truly yours,

**THE BROOKLYN UNION GAS  
COMPANY**, a New York corporation

By: \_\_\_\_\_  
[Name]  
[Title]

**PROLOGIS, L.P.**,  
a Delaware limited partnership

By: Prologis Inc., its general partner

By: \_\_\_\_\_  
Name:  
Title:

AGREED TO

ROYAL ABSTRACT OF NEW YORK LLC

By: \_\_\_\_\_  
Name:  
Title  
Escrowee

**EXHIBIT B**

**CERTIFICATE OF NON-FOREIGN STATUS**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a “foreign person.” To inform the transferee that withholding of such tax is not required upon the disposition of a U.S. real property interest by **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation (the “Transferor”), the undersigned hereby certifies the following on behalf of the Transferor:

- (1) The Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
- (2) The Transferor’s U.S. employer identification number is \_\_\_\_\_; and
- (3) The Transferor's office address is [\_\_\_\_\_].

Dated: \_\_\_\_ \_\_\_\_, 202\_\_

TRANSFEROR:

**THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By: \_\_\_\_\_  
[Name]  
[Title]



**EXHIBIT C**

SURVEY  
(immediately follows)

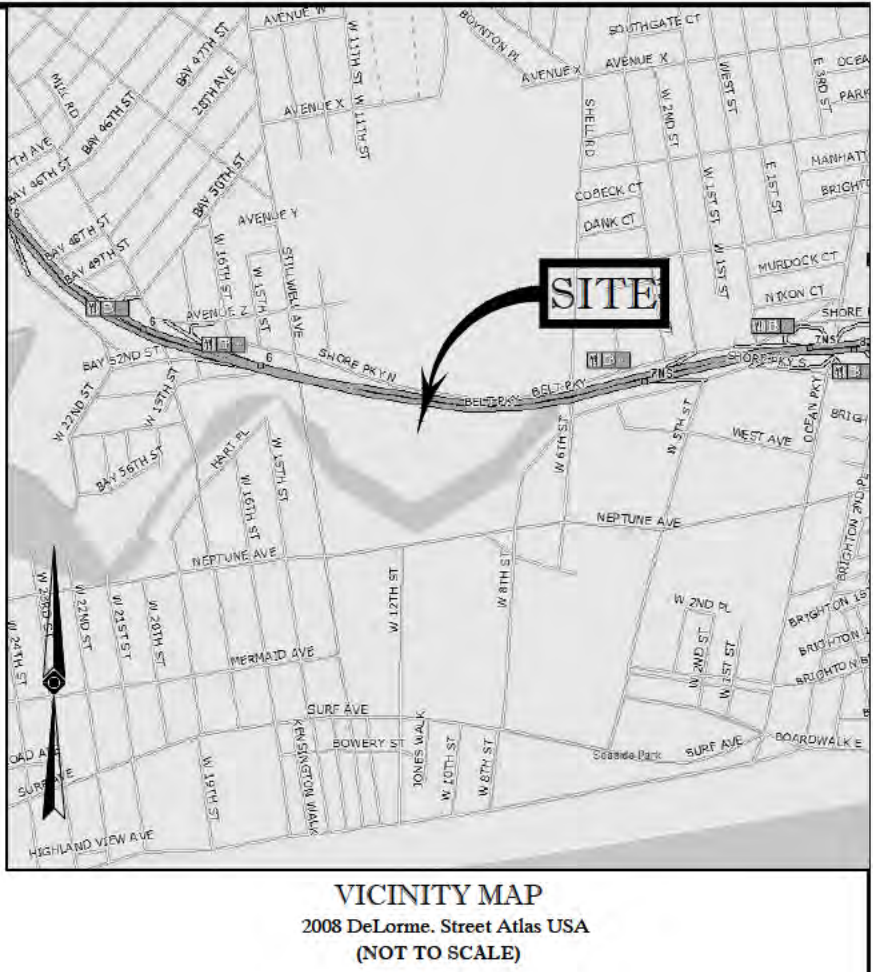
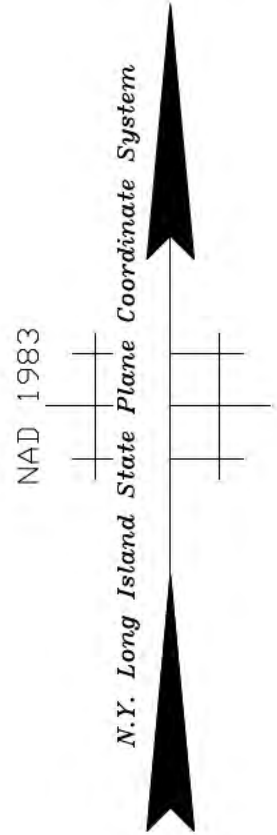




SEE SHEET 2 OF 2 FOR NOTES AND REFERENCES

THIS SURVEY HAS BEEN PERFORMED IN THE FIELD UNDER MY SUPERVISION, AND TO THE BEST OF MY KNOWLEDGE, BELIEF AND INFORMATION, THIS SURVEY HAS BEEN PERFORMED IN ACCORDANCE WITH CURRENTLY ACCEPTED ACCURACY STANDARDS.		FIELD DATE <b>01-15-2021</b>		BOUNDARY & TOPOGRAPHIC SURVEY FORMER BROOKLYN BOROUGH GAS WORK SITE	
NOT A VALID ORIGINAL DOCUMENT UNLESS SEALED		FIELD BOOK NO. <b>21-01</b>		NEPTUNE AVENUE & SHORE PARKWAY LOT 106, BLOCK 7247, SECTION 21	
		FIELD BOOK PG. <b>38</b>		BOROUGH OF BROOKLYN, KINGS COUNTY CITY & STATE OF NEW YORK	
		FIELD CREW <b>B.B.</b>		<div style="display: flex; align-items: center;"> <div> <b>CONTROL POINT</b>  <b>ASSOCIATES, INC. PC</b>            30 INDEPENDENCE BOULEVARD, SUITE 100            WARREN, NJ 07059            908.688.0099 • 908.688.9295 FAX  <a href="http://WWW.CPASURVEY.COM">WWW.CPASURVEY.COM</a> </div> </div>	
		DRAWN: <b>Z.B.</b>		<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>             CHALFONT, PA 21512-8800              ATT. LANCE: 91.900.21.0000              MANASSAHTOWN, NJ 08604-0140              LONG BEACH, NY 11561-2840              SOUTH ORANGE, NJ 08859-3000              BOZEMAN, MT 59717-0100              ALBANY, NY 12212-2130           </div> </div>	
<b>07-13-2021</b>		DATE			





METES AND BOUNDS DESCRIPTION:

SECTION 21, BLOCK 7247, LOT 106  
BOROUGH OF BROOKLYN, KINGS COUNTY CITY & STATE OF NEW YORK  
AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SHORE PARKWAY, A VARIABLE WIDTH RIGHT OF WAY, SAID POINT BEING WHERE THE SAME IS INTERSECTED BY THE DIVIDING LINE OF LOTS 30 AND 106, IN BLOCK 7247, THENCE;

SOUTH 80 DEGREES 33 MINUTES 51 SECONDS EAST, A DISTANCE OF 286.26 FEET TO A POINT, THENCE;

SOUTH 43 DEGREES 31 MINUTES 09 SECONDS EAST, A DISTANCE OF 61.79 FEET TO A POINT, THENCE;

SOUTH 20 DEGREES 18 MINUTES 44 SECONDS EAST, A DISTANCE OF 45.69 FEET TO A POINT, THENCE;

SOUTH 63 DEGREES 33 MINUTES 20 SECONDS EAST, A DISTANCE OF 27.47 FEET TO A POINT, THENCE;

SOUTH 27 DEGREES 25 MINUTES 08 SECONDS EAST, A DISTANCE OF 37.73 FEET TO A POINT, THENCE;

SOUTH 60 DEGREES 12 MINUTES 45 SECONDS EAST, A DISTANCE OF 31.32 FEET TO A POINT, THENCE;

SOUTH 63 DEGREES 09 MINUTES 56 SECONDS EAST, A DISTANCE OF 29.73 FEET TO A POINT, THENCE;

SOUTH 69 DEGREES 27 MINUTES 52 SECONDS EAST, A DISTANCE OF 20.57 FEET TO A POINT, THENCE;

SOUTH 79 DEGREES 12 MINUTES 14 SECONDS EAST, A DISTANCE OF 24.01 FEET TO A POINT, THENCE;

NORTH 56 DEGREES 12 MINUTES 18 SECONDS EAST, A DISTANCE OF 45.21 FEET TO A POINT, THENCE;

NORTH 08 DEGREES 14 MINUTES 06 SECONDS WEST, A DISTANCE OF 113.83 FEET TO A POINT, THENCE;

SOUTH 80 DEGREES 33 MINUTES 51 SECONDS EAST, A DISTANCE OF 36.73 FEET TO A POINT, THENCE;

ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 3643.67 FEET, A CENTRAL ANGLE OF 06 DEGREES 23 MINUTES 45 SECONDS, AN ARC LENGTH OF 408.74 FEET, A CHORD BEARING OF SOUTH 89 DEGREES 33 MINUTES 28 SECONDS EAST, AND A CHORD DISTANCE OF 406.53 FEET TO A POINT OF TANGENCY, THENCE;

SOUTH 63 DEGREES 11 MINUTES 46 SECONDS EAST, A DISTANCE OF 47.75 FEET TO A POINT, THENCE;

SOUTH 75 DEGREES 49 MINUTES 36 SECONDS EAST, A DISTANCE OF 80.38 FEET TO A POINT, THENCE;

NORTH 62 DEGREES 25 MINUTES 54 SECONDS EAST, A DISTANCE OF 120.36 FEET TO A POINT, THENCE;

SOUTH 80 DEGREES 18 MINUTES 36 SECONDS EAST, A DISTANCE OF 48.01 FEET TO A POINT, THENCE;

SOUTH 42 DEGREES 45 MINUTES 06 SECONDS WEST, A DISTANCE OF 43.58 FEET TO A POINT, THENCE;

SOUTH 59 DEGREES 09 MINUTES 49 SECONDS WEST, A DISTANCE OF 21.47 FEET TO A POINT, THENCE;

SOUTH 45 DEGREES 48 MINUTES 19 SECONDS WEST, A DISTANCE OF 45.87 FEET TO A POINT, THENCE;

SOUTH 47 DEGREES 52 MINUTES 30 SECONDS WEST, A DISTANCE OF 15.95 FEET TO A POINT, THENCE;

SOUTH 52 DEGREES 36 MINUTES 14 SECONDS WEST, A DISTANCE OF 16.08 FEET TO A POINT, THENCE;

SOUTH 16 DEGREES 46 MINUTES 56 SECONDS WEST, A DISTANCE OF 4.14 FEET TO A POINT, THENCE;

SOUTH 45 DEGREES 01 MINUTES 46 SECONDS WEST, A DISTANCE OF 221.35 FEET TO A POINT, THENCE;

SOUTH 45 DEGREES 38 MINUTES 20 SECONDS WEST, A DISTANCE OF 160.42 FEET TO A POINT, THENCE;

SOUTH 46 DEGREES 39 MINUTES 23 SECONDS WEST, A DISTANCE OF 94.72 FEET TO A POINT, THENCE;

SOUTH 40 DEGREES 32 MINUTES 59 SECONDS WEST, A DISTANCE OF 63.50 FEET TO A POINT, THENCE;

SOUTH 43 DEGREES 18 MINUTES 57 SECONDS WEST, A DISTANCE OF 66.71 FEET TO A POINT, THENCE;

SOUTH 42 DEGREES 15 MINUTES 18 SECONDS WEST, A DISTANCE OF 83.25 FEET TO A POINT, THENCE;

SOUTH 69 DEGREES 34 MINUTES 28 SECONDS WEST, A DISTANCE OF 41.79 FEET TO A POINT, THENCE;

NORTH 69 DEGREES 12 MINUTES 09 SECONDS WEST, A DISTANCE OF 17.46 FEET TO A POINT, THENCE;

SOUTH 69 DEGREES 53 MINUTES 02 SECONDS WEST, A DISTANCE OF 39.01 FEET TO A POINT, THENCE;

SOUTH 68 DEGREES 43 MINUTES 20 SECONDS WEST, A DISTANCE OF 9.19 FEET TO A POINT, THENCE;

SOUTH 50 DEGREES 41 MINUTES 32 SECONDS WEST, A DISTANCE OF 33.79 FEET TO A POINT, THENCE;

SOUTH 47 DEGREES 34 MINUTES 20 SECONDS WEST, A DISTANCE OF 14.58 FEET TO A POINT, THENCE;

SOUTH 43 DEGREES 03 MINUTES 21 SECONDS WEST, A DISTANCE OF 34.93 FEET TO A POINT, THENCE;

SOUTH 56 DEGREES 32 MINUTES 34 SECONDS WEST, A DISTANCE OF 15.01 FEET TO A POINT, THENCE;

SOUTH 50 DEGREES 39 MINUTES 05 SECONDS WEST, A DISTANCE OF 61.65 FEET TO A POINT, THENCE;

NORTH 86 DEGREES 29 MINUTES 05 SECONDS WEST, A DISTANCE OF 7.89 FEET TO A POINT, THENCE;

SOUTH 57 DEGREES 43 MINUTES 23 SECONDS WEST, A DISTANCE OF 8.06 FEET TO A POINT, THENCE;

SOUTH 07 DEGREES 39 MINUTES 03 SECONDS WEST, A DISTANCE OF 11.87 FEET TO A POINT, THENCE;

SOUTH 78 DEGREES 00 MINUTES 14 SECONDS WEST, A DISTANCE OF 46.92 FEET TO A POINT, THENCE;

SOUTH 27 DEGREES 11 MINUTES 25 SECONDS WEST, A DISTANCE OF 15.71 FEET TO A POINT, THENCE;

SOUTH 44 DEGREES 28 MINUTES 21 SECONDS WEST, A DISTANCE OF 10.06 FEET TO A POINT, THENCE;

SOUTH 72 DEGREES 29 MINUTES 34 SECONDS WEST, A DISTANCE OF 37.86 FEET TO A POINT, THENCE;

SOUTH 70 DEGREES 00 MINUTES 03 SECONDS WEST, A DISTANCE OF 15.04 FEET TO A POINT, THENCE;

SOUTH 73 DEGREES 22 MINUTES 39 SECONDS WEST, A DISTANCE OF 32.77 FEET TO A POINT, THENCE;

NORTH 26 DEGREES 44 MINUTES 00 SECONDS WEST, A DISTANCE OF 40.75 FEET TO A POINT, THENCE;

NORTH 65 DEGREES 09 MINUTES 15 SECONDS WEST, A DISTANCE OF 12.11 FEET TO A POINT, THENCE;

NORTH 61 DEGREES 48 MINUTES 56 SECONDS WEST, A DISTANCE OF 88.68 FEET TO A POINT, THENCE;

NORTH 66 DEGREES 46 MINUTES 21 SECONDS WEST, A DISTANCE OF 118.71 FEET TO A POINT, THENCE;

NORTH 51 DEGREES 32 MINUTES 59 SECONDS WEST, A DISTANCE OF 58.50 FEET TO A POINT, THENCE;

NORTH 34 DEGREES 14 MINUTES 43 SECONDS WEST, A DISTANCE OF 137.54 FEET TO A POINT, THENCE;

NORTH 00 DEGREES 09 MINUTES 06 SECONDS WEST, A DISTANCE OF 24.74 FEET TO A POINT, THENCE;

NORTH 33 DEGREES 41 MINUTES 58 SECONDS WEST, A DISTANCE OF 154.10 FEET TO A POINT, THENCE;

NORTH 46 DEGREES 42 MINUTES 29 SECONDS WEST, A DISTANCE OF 56.56 FEET TO A POINT, THENCE;

NORTH 17 DEGREES 25 MINUTES 03 SECONDS EAST, A DISTANCE OF 177.54 FEET TO A POINT, THENCE;

NORTH 28 DEGREES 46 MINUTES 39 SECONDS EAST, A DISTANCE OF 316.61 FEET TO THE POINT AND PLACE OF BEGINNING.

UTILITIES:

THE FOLLOWING COMPANIES WERE NOTIFIED BY NEW YORK ONE-CALL SYSTEM (1-800-272-4480) AND REQUESTED TO MARK OUT UNDERGROUND FACILITIES AFFECTING AND SERVING THIS SITE. THE UNDERGROUND UTILITY INFORMATION SHOWN HEREON IS BASED UPON THE UTILITY COMPANIES RESPONSE TO THIS REQUEST. SERIAL NUMBER(S):

UTILITY COMPANY  
BROOKLYN UNION GAS  
CON EDISON  
CABLEVISION OF NY

PHONE NUMBER  
(718) 403-2000  
(718) 622-5454  
(914) 962-4444

UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUB-DIVISION 2, OF THE NEW YORK STATE EDUCATION LAW.

ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.

NOTES:

- PROPERTY KNOWN AS LOT 106, BLOCK 7247, SECTION 21 AS SHOWN ON THE TAX MAP OF THE BOROUGH OF BROOKLYN, KINGS COUNTY, CITY AND STATE OF NEW YORK.
- LOT 106 AREA= 731,240 SF OR 16.787 AC.
- THE LOCATION OF UNDERGROUND UTILITIES HAVE NOT BEEN SHOWN. UTILITY INFORMATION SHOWN IS LIMITED TO VISIBLE UTILITY HARDWARE AND UTILITY MARKOUTS AT THE SURFACE AND DOES NOT INCLUDE SUCH ITEMS AS SUBSURFACE PIPING, UTILITY LINES, ETC. BEFORE ANY EXCAVATION IS TO BEGIN, UNDERGROUND UTILITIES SHOULD BE VERIFIED BY THE PROPER UTILITY COMPANIES. CONTROL POINT ASSOCIATES, INC. DOES NOT GUARANTEE THE UTILITIES SHOWN COMPRISE SUCH UTILITIES IN THE AREA EITHER IN SERVICE OR ABANDONED.
- THIS PLAN IS BASED ON INFORMATION PROVIDED BY A SURVEY PREPARED IN THE FIELD BY CONTROL POINT ASSOCIATES, INC. AND OTHER REFERENCE MATERIAL AS LISTED HEREON.
- THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO THE RESTRICTIONS, COVENANTS AND/OR EASEMENTS THAT MAY BE CONTAINED THEREIN. IT IS STRONGLY RECOMMENDED THAT A COMPLETE TITLE SEARCH BE PROVIDED TO THE SURVEYOR FOR REVIEW PRIOR TO THE PLACEMENT OF OR ALTERATION TO IMPROVEMENTS ON THE PROPERTY.
- ELEVATIONS REFER TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), BASED ON GPS OBSERVATIONS UTILIZING THE KEYSTONE VRS NETWORK (KEYNETGPS), WHICH IS 1.65 FEET BELOW THE BOROUGH OF MANHATTAN HIGHWAY DATUM, REPUTED TO BE 2.75 FEET ABOVE MEAN SEA LEVEL AT SANDY HOOK.  
  
TO CONVERT TO BOROUGH OF BROOKLYN DATUM SUBTRACT 1.45 FEET FROM THE ELEVATIONS LISTED. TO CONVERT TO NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD29) ADD 1.1 FEET TO THE ELEVATIONS LISTED.
- EXISTING FIRM: BY GRAPHIC PLOTTING ONLY PROPERTY IS LOCATED IN FLOOD HAZARD X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), ZONE X SHADED (AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE, AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD), AND ZONE AE (THE FLOODWAY IS THE CHANNEL OF A STREAM PLUS ANY ADJACENT FLOODPLAIN AREAS THAT MUST BE KEPT FREE OF ENCROACHMENT SO THAT THE 1% ANNUAL CHANCE FLOOD CAN BE CARRIED WITHOUT SUBSTANTIAL INCREASES IN FLOOD HEIGHTS). PER REF. #2.
- THIS SURVEY MAKES NO STATEMENT AS TO THE ENVIRONMENTAL CONDITIONS OF THIS SITE.


REFERENCES:

- THE OFFICIAL TAX MAP OF THE BOROUGH OF BROOKLYN, KINGS COUNTY, NEW YORK SECTION 21.
- MAP ENTITLED "NATIONAL FLOOD INSURANCE PROGRAM FIRM, FLOOD INSURANCE RATE MAP, CITY OF NEW YORK, NEW YORK, BRONX, RICHMOND, NEW YORK, QUEENS & KINGS COUNTIES" PANEL 0353F. MAP REVISED SEPTEMBER 5, 2007.
- MAP ENTITLED "SURVEY OF PROPERTY, LOTS 105, 106, 113, 114 & 320, BLOCK 7247 SITUATED IN BOROUGH OF BROOKLYN, KINGS COUNTY, NEW YORK" PREPARED BY LYNCH, GIULIANO & ASSOCIATES, INC., DATED 8-96, FILE NO. 1638-6, SHEET 1 OF 1.
- GAS MAPS PROVIDED BY THE KEYSpan ENERGY CORPORATION, PLATES 79A-28, 82-68, 82-69, 82-79, 82-80.
- WATER DISTRIBUTION MAPS PROVIDED BY THE CITY OF NEW YORK DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF WATER AND SEWER OPERATIONS, MAPS DDM N16-10, DDM N16-15 & DDM N16-20.
- FINAL STREET MAP OF THE BOROUGH OF BROOKLYN, SHEET 109.
- TIDAL WETLANDS MAP PREPARED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, MAP 586-452.
- ELECTRIC MAPS PROVIDED BY CONSOLIDATED EDISON CO. OF N.Y., INC., PLATE NOS. 5-L & 6-L, LAST UPDATED 9-11-98.

NOT A VALID ORIGINAL DOCUMENT UNLESS SEALED

**JAMES C. WEED**  
NEW YORK PROFESSIONAL LAND SURVEYOR #50765-1

07-13-2021  
DATE

FIELD DATE 01-15-2021	<b>BOUNDARY &amp; TOPOGRAPHIC SURVEY FORMER BROOKLYN BOROUGH GAS WORK SITE NEPTUNE AVENUE &amp; SHORE PARKWAY LOT 106, BLOCK 7247, SECTION 21 BOROUGH OF BROOKLYN, KINGS COUNTY CITY &amp; STATE OF NEW YORK</b>				
FIELD BOOK NO. 21-01					
FIELD BOOK PGS. 38					
FIELD CREW B.B.	 <b>CONTROL POINT ASSOCIATES, INC. PC</b> 30 INDEPENDENCE BOULEVARD, SUITE 100 WARREN, NJ 07059 908.668.0099 - 908.668.9295 FAX WWW.CPASURVEY.COM				
DRAWN: Z.B.					
REVIEWED: J.J.W.	APPROVED: J.C.W.	DATE 07-13-2021	SCALE 1"=60'	FILE NO. 01-200401-00	DWG. NO. 2 OF 2



**EXHIBIT D**

**PERMITTED EXCEPTIONS OF RECORD**

1. Declaration of Covenants and Restrictions made by the Brooklyn Union Gas Company, dated June 3, 1995 recorded June 5, 1995 in Reel 3524 page 2379.
2. Rights of the City of New York contained in deed made by and between Realty Associates, Frank Bailey, Marie Louise Bailey and Brooklyn Borough Gas Company, dated April 20, 1921 recorded April 21, 1921 in Liber 4034 page 76.
3. Covenants and Restrictions recorded in Liber 7209 page 97.
4. Covenants and Restrictions recorded in Liber 1698 page 22.
5. Acquisition of Easement to the City of New York referred to in Final Decree recorded in Reel 304 page 1908.
6. Delta Track Agreement between New York City Transit Authority and The Metropolitan Transportation Authority recorded in Reel 2142 page 822.
7. Taking by The New York City Transit Authority by Final Decree recorded in Reel 4483 page 368.
8. Terms and Conditions of Environmental Notice made by The New York State Department of Environmental Conservation recorded June 8, 2012 in CRFN 2012000235857.
9. Right of Way Agreements between George Stillwell and Mary Parker and Charles J. Lawless recorded February 5, 1897 in Liber 3 Section 21 page 305 and page 307.

**EXHIBIT E**

**ENVIRONMENTAL REPORTS**

The list of Environmental Reports were provided in native Microsoft Excel electronic format only upon the execution and delivery of this Agreement.

**EXHIBIT F**

**SELLER CONTRACTS TO SURVIVE CLOSING**

1. Downstate New York Operations, Maintenance and Monitoring Contract (EC\_OM&M MSA 2017\_GEI-DNY) with GEI Consultants Inc., P.C. for environmental consulting services, including activities related to compliance with and obligations under the Site Management Plan (multi-site scope).
2. Pickup/Waste Transportation Master Services Agreement with Veolia North America Environmental Services Solutions related to drum removal (multi-site scope).

**EXHIBIT G**

[RESERVED]

**EXHIBIT H**

[REDACTED]



FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (this “Amendment”), made this 20th day of January 2023, between **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation, having an address at 175 East Old Country Road, Hicksville, New York 11801 (“Seller”), and **PROLOGIS, L.P.**, a Delaware limited partnership, having an address at 1800 Wazee Street, Suite 500, Denver, Colorado 80202 (“Purchaser”). Seller and Purchaser shall be referred to collectively as the “Parties.”

RECITALS

WHEREAS, Seller and Purchaser entered into a certain Purchase and Sale Agreement, dated as of December 22, 2022 (the “Agreement”), pursuant to which Seller agreed to sell and Purchase agreed to purchase the Property (as such term is defined in the Agreement) located at 2731 West 12<sup>th</sup> Street, Brooklyn, New York and designated as Block 7247, Lot 106 on the New York City Tax Map, Kings County, all as more particularly described in the Agreement;

WHEREAS, Seller and Purchaser are desirous of amending the Agreement so as to modify the timing upon which Seller must file its application for the PSC Approval upon the terms and conditions contained within this Amendment.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Capitalized terms used in this Amendment (including the Recitals), unless otherwise defined herein, shall have the same meaning ascribed thereto in the Agreement.

2. Section 7(g) is amended in part by deleting the last sentence contained therein and substituting in lieu thereof the following:

**“Seller hereby covenants and agrees to submit the foregoing petition for PSC Approval within thirty (30) days following the expiration of the Investigation Period and, upon such submittal, to provide a true and complete copy thereof to Purchaser, and Seller shall use diligent, good faith and commercially reasonable efforts to obtain such PSC Approval.”**

3. This Amendment may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. This Amendment will become effective when duly executed by each party hereto. Facsimile or PDF email signatures shall have the same binding effect as original signatures. No party hereto shall raise the use of a facsimile machine or PDF email to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or PDF email as a defense to the formation of a legal, valid and binding contractual obligation and each such party forever waives any such defense.


4. Except as specifically modified by this Amendment, the terms and conditions of the Agreement shall remain in full force and effect as stated therein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Purchase and Sale Agreement as of the date first set forth above.

SELLER:

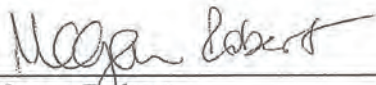
**THE BROOKLYN UNION GAS COMPANY,  
d/b/a National Grid NY**

By:   
Steven Doben  
Authorized Signatory

SELLER:

**PROLOGIS, L.P.**

By: Prologis Inc., its general partner

By:   
Megan Robert  
Authorized Signatory

**SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT**

This instrument (this “Second Amendment”), dated effective as of May 1, 2023, is by and between **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation, (“Seller”) and **PROLOGIS, L.P.**, a Delaware limited partnership, (“Purchaser”) relative to that certain Purchase and Sale Agreement dated effective December 22 2022, as amended by that certain First Amendment to Purchase and Sale Agreement dated January 20, 2023 (as amended, the “Agreement”) concerning the real property more fully defined in the Agreement (the “Property”).

IN CONSIDERATION of \$10.00 in hand paid, the covenants and conditions contained herein, and for other good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree to amend the Agreement as follows:

1. Definitions. Capitalized terms used in this Second Amendment, unless otherwise defined herein, shall have the same meaning ascribed thereto in the Agreement.

2. Amendment of Purchase Price. Section 2(a) shall be modified by reducing the Purchase Price to \$57,000,000.00, with the Purchase Price being reduced to factor in, among other things, (i) unanticipated costs due to street improvements and intersection upgrades, (ii) permitting timing associated with jurisdictional uncertainty concerning access drive, and hospital’s occupancy of same, and (iii) general market conditions.

3. Extension of Investigation Period. Section 6(a) shall be modified in part such that the Investigation Period is hereby extended until 5:00 p.m. Eastern Standard Time on May 23, 2023, time being deemed of the essence.

4. Purchaser’s Objection Notice. Notwithstanding anything in the Agreement to the contrary, Purchaser shall, on or before the expiration of the Investigation Period, have the right to terminate the Agreement in connection with any title deficiencies raised in its Objection Notice, dated April 14, 2023. If Purchaser does not terminate the Agreement on or before May 23, 2023, Purchaser shall be deemed to have acknowledged, stipulated and agreed that Seller’s Objection Response, dated April 26, 2023, fully satisfied in all respects Purchaser’s Objection Notice, dated April 14, 2023.

5. Miscellaneous.

a. Except to the extent the Agreement is modified by this Second Amendment, the remaining terms and conditions of the Agreement shall remain unmodified and in full force and effect, and is hereby ratified by Purchaser and Seller.

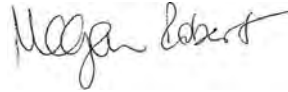
b. This Second Amendment may be executed in counterparts, each of which (or any combination of which) when signed by all of the parties shall be deemed an original, but all of which when taken together shall constitute one agreement. Executed copies hereof may be delivered by email and shall be deemed originals and binding upon the parties hereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the day and year first above written.

**PURCHASER:**        **PROLOGIS, L.P.,**  
a Delaware limited partnership

By:     Prologis, Inc., its general partner



By: \_\_\_\_\_

Name: Megan Robert

Title: Senior Vice President

**SELLER:**            **THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the day and year first above written.

**PURCHASER:**      **PROLOGIS, L.P.,**  
a Delaware limited partnership

By:      Prologis, Inc., its general partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SELLER:**              **THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By:  \_\_\_\_\_

Name: Steven Deban

Title: It's Representative

**THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT**

This instrument (this "Third Amendment"), dated effective as of May 23, 2023, is by and between **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation, ("Seller") and **PROLOGIS, L.P.**, a Delaware limited partnership, ("Purchaser") relative to that certain Purchase and Sale Agreement dated effective December 22, 2022, as amended by that certain First Amendment to Purchase and Sale Agreement dated January 20, 2023, as amended by that certain Second Amendment to Purchase and Sale Agreement dated May 1, 2023 (as amended, the "Agreement") concerning the real property more fully defined in the Agreement (the "Property").

IN CONSIDERATION of \$10.00 in hand paid, the covenants and conditions contained herein, and for other good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree to amend the Agreement as follows:

1. Definitions. Capitalized terms used in this Third Amendment, unless otherwise defined herein, shall have the same meaning ascribed thereto in the Agreement.

2. Extension of Investigation Period. Section 6(a) shall be modified in part such that the Investigation Period is hereby extended until 5:00 p.m. Eastern Standard Time on May 31, 2023.

3. Miscellaneous.

a. Except to the extent the Agreement is modified by this Third Amendment, the remaining terms and conditions of the Agreement shall remain unmodified and in full force and effect, and is hereby ratified by Purchaser and Seller.

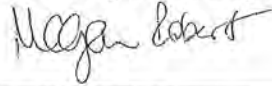
b. This Third Amendment may be executed in counterparts, each of which (or any combination of which) when signed by all of the parties shall be deemed an original, but all of which when taken together shall constitute one agreement. Executed copies hereof may be delivered by email and shall be deemed originals and binding upon the parties hereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as of the day and year first above written.

PURCHASER: **PROLOGIS, L.P.**,  
a Delaware limited partnership

By: Prologis, Inc., its general partner



By: \_\_\_\_\_

Name: Megan Robert

Title: Senior Vice President

SELLER: **THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



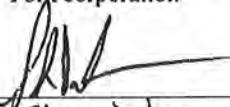
IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as of the day and year first above written.

PURCHASER: **PROLOGIS, L.P.**,  
a Delaware limited partnership

By: Prologis, Inc., its general partner

By: \_\_\_\_\_  
Name: Megan Robert  
Title: Senior Vice President

SELLER: **THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By:  \_\_\_\_\_  
Name: Steven Dobyn  
Title: Authorized Representative

**FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT**

This instrument (this “Fourth Amendment”), dated effective as of May 31, 2023, is by and between **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation, (“Seller”) and **PROLOGIS, L.P.**, a Delaware limited partnership, (“Purchaser”) relative to that certain Purchase and Sale Agreement dated effective December 22 2022, as amended by that certain First Amendment to Purchase and Sale Agreement dated January 20, 2023, as amended by that certain Second Amendment to Purchase and Sale Agreement dated May 1, 2023, and as amended by that certain Third Amendment to Purchase and Sale Agreement dated May 23, 2023 (as amended, the “Agreement”) concerning the real property more fully defined in the Agreement (the “Property”).

IN CONSIDERATION of \$10.00 in hand paid, the covenants and conditions contained herein, and for other good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree to amend the Agreement as follows:

1. Definitions. Capitalized terms used in this Fourth Amendment, unless otherwise defined herein, shall have the same meaning ascribed thereto in the Agreement.

2. Amendment of Purchase Price. Section 2(a) shall be modified so that the Purchase Price is \$51,000,000.00.

3. Commissions. Notwithstanding anything in the Agreement to the contrary, Purchaser shall pay \$250,000 of any commission fees payable by Seller to the Broker at Closing with respect to this transaction.

4. Investigation Period. Section 6(a) shall be modified in part such that the Investigation Period is hereby extended until June 20, 2023 as of 5:00 p.m. Eastern Standard Time with respect to title and survey matters only (“Title Matters”) (“Title Investigation Period”). Except with respect to the Title Matters, Purchaser acknowledges and agrees that the Inspection Period has otherwise expired and that Purchaser shall have no other right to terminate the Agreement under Section 6(d). If Purchaser terminates this Agreement prior to the expiration of the Title Investigation Period with respect to the Title Matters not being resolved satisfactorily, as determined by Purchaser in its sole discretion, then Escrow Agent shall refund the Deposit to Purchaser and this Agreement shall terminate and be of no further force or effect except with respect to those provisions that expressly survive such termination. For the avoidance of doubt, the Additional Deposit shall be due three (3) business days after the expiration of the Title Investigation Period. If Purchaser elects not to terminate this Agreement on or before the Title Investigation Period, the Purchaser shall have been deemed to waive the following Title Matters set forth in Purchaser’s Objection Notice, dated April 14, 2023: (i) Exceptions Numbered 5, 6, 7, 8, 9, 10, 10(a), 11, 12, 12(a), 16, 22, and 23 only, (ii) the Property’s Schedule A legal description, and (iii) any state of facts shown by a survey of the Property, provided that nothing herein shall modify any of the provisions of the Agreement with respect to New Matters, that specifically arise following the expiration of the Title Investigation Period.

5. Miscellaneous.

a. Except to the extent the Agreement is modified by this Fourth Amendment, the remaining terms and conditions of the Agreement shall remain unmodified and in full force and effect, and is hereby ratified by Purchaser and Seller.

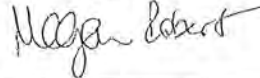
b. This Fourth Amendment may be executed in counterparts, each of which (or any combination of which) when signed by all of the parties shall be deemed an original, but all of which when taken together shall constitute one agreement. Executed copies hereof may be delivered by email and shall be deemed originals and binding upon the parties hereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the day and year first above written.

PURCHASER: **PROLOGIS, L.P.,**  
a Delaware limited partnership

By: Prologis, Inc., its general partner



By: \_\_\_\_\_

Name: Megan Robert

Title: Senior Vice President

SELLER: **THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

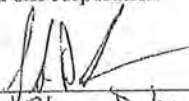
IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the day and year first above written.

PURCHASER: **PROLOGIS, L.P.**,  
a Delaware limited partnership

By: Prologis, Inc., its general partner

By: \_\_\_\_\_  
Name: Megan Robert  
Title: Senior Vice President

SELLER: **THE BROOKLYN UNION GAS COMPANY**,  
a New York corporation

By:  \_\_\_\_\_  
Name: Steven Deppen  
Title: Authorized Representative

FINAL EXECUTION VERSION

**FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT**

This instrument (this "Fifth Amendment"), dated effective as of June 20, 2023, is by and between **THE BROOKLYN UNION GAS COMPANY**, d/b/a National Grid NY, a New York corporation, ("Seller") and **PROLOGIS, L.P.**, a Delaware limited partnership, ("Purchaser") relative to that certain Purchase and Sale Agreement dated effective December 22, 2022, as amended by that certain First Amendment to Purchase and Sale Agreement dated January 20, 2023, as amended by that certain Second Amendment to Purchase and Sale Agreement dated May 1, 2023, as amended by that certain Third Amendment to Purchase and Sale Agreement dated May 23, 2023, and as amended by that certain Fourth Amendment to Purchase and Sale Agreement dated May 31, 2023 (as amended, the "Agreement") concerning the real property more fully defined in the Agreement (the "Property").

IN CONSIDERATION of \$10.00 in hand paid, the covenants and conditions contained herein, and for other good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree to amend the Agreement as follows:

1. Definitions. Capitalized terms used in this Fifth Amendment, unless otherwise defined herein, shall have the same meaning ascribed thereto in the Agreement.

2. Investigation Period. Subject to Section 5(a)(v) and Section 7(h) and (i) below, Purchaser acknowledges and agrees that (i) the Investigation Period contemplated in Section 6(a) has expired with respect to all due diligence matters, including, without limitation, the Title Matters and (ii) it has elected not to terminate this Agreement pursuant to Section 6(a) of the Agreement.

3. Deed. Notwithstanding anything in the Agreement to the contrary, the Deed that Seller utilizes to transfer the Property to Purchaser at Closing pursuant to the provisions of the Agreement shall also include the legal description for the Property attached as Exhibit A to this Amendment, which includes Former 12<sup>th</sup> Street (as defined below) and the Gore Parcel (as defined below), except as omission of the Gore Parcel is allowed pursuant to the express provisions of this Fifth Amendment.

4. Closing Conditions. The following are added as Section 7(h), Section 7(i) and Section (j) to the Agreement.

(a) "Section 7(h). Former 12<sup>th</sup> Street. Notwithstanding anything in the Agreement to the contrary, it shall be a Closing condition ("Former 12<sup>th</sup> Street Closing Condition") for Purchaser's benefit that Seller will transfer insurable and marketable title of the Property to Purchaser, which shall include former West 12<sup>th</sup> Street (which previously bisected the Property running North to South, "Former 12<sup>th</sup> Street") to Purchaser at Closing pursuant to the provisions of this Agreement. This Former 12<sup>th</sup> Street Closing Condition shall be deemed satisfied upon the occurrence of any of the detailed below Options:

1) Option 1: Seller delivers to Purchaser and Title Company a deed (or otherwise acceptable conveyance document) in recordable form from The City of New York (the "City"), as the fee owner of the Property, transferring insurable and marketable title of Former 12<sup>th</sup> Street to Seller, provided such deed or conveyance document must have been executed by a person at the City with full, right, power and authority to enter into such deed, and the execution and delivery of same is in accordance with all applicable laws, rules and regulations and any such deed will constitute valid and binding obligations of the City, and based on such, Title Company will issue the Title Policy to Purchaser with Former 12th Street being a part of the insured estate, with such insurance being free of any and all title exceptions or limitations concerning ownership rights the City or other third-parties may have in and to Former 12th Street.

2) Option 2: All of the following must occur in satisfaction of Option 2:

(x) Seller delivers to Purchaser and Title Company documentation (outside of what is contemplated in 1) above) from the City clearly relinquishing any ownership rights it may have had in and to Former 12<sup>th</sup> Street, or otherwise evidencing it no longer has any ownership rights in same, provided such documentation must have been executed by a person at the City with full, right, power and authority to enter into such documentation, and the execution and delivery of same is in accordance with all applicable laws, rules and regulations and any such deed or documentation will constitute valid and binding obligations of the City, (y) Seller must obtain title to Former 12<sup>th</sup> Street from the parties specifically identified by Title Company as the title holders of the Property, through a successful, final and non-appealable quiet title action (based on principals of adverse possession), and (z) based on the foregoing, Title Company will issue the Title Policy to Purchaser with Former 12th Street being a part of the insured estate, with such insurance being free of any and all title exceptions or limitations concerning ownership rights the City or other third-parties may have in and to Former 12th Street.

3) Option 3: Seller produces documentation acceptable to Title Company that establishes that it owns the Former 12<sup>th</sup> Street of record and allows Title Company to issue the Title Policy to Purchaser with Former 12<sup>th</sup> Street being a part of the insured estate, with such insurance being free of any and all title exceptions or limitations concerning ownership rights the City or other third-parties may have in and to Former 12<sup>th</sup> Street.

(b) Section 7(i). Gore Parcel. Notwithstanding anything in the Agreement to the contrary, it shall be a Closing condition ("Former Gore Parcel Closing Condition") for Purchaser's benefit that Seller transfer insurable and marketable title of the Property, which shall include that area of the Property shown on Exhibit A-1 attached hereto and made a part hereof (the "Gore Parcel") to Purchaser at Closing pursuant to the provisions of the Agreement and this Amendment. This Former Gore Parcel Closing Condition shall be deemed satisfied upon the occurrence of any of the detailed below Options:

1) Option 1: Documentation is obtained that is reasonably acceptable to Title Company that establishes that Lot 218 was acquired by the City (or MTA) through condemnation (or similar proceeding) from Seller or its predecessor (as the then fee owner of Lot 218) and Title Company will issue the Title Policy to Purchaser with the Gore Parcel being a part of the insured estate, with such insurance being free of any and all title exceptions or limitations concerning ownership rights the City or other governmental agency (including MTA) may have in and to the Gore Parcel or any deficiencies with respect to the Property including multiple tax parcels and including a single tax parcel endorsement.

2) Option 2: The provision of an insurable, marketable and recordable deed from the City or any governmental agency (including the MTA) determined by Title Company to be the fee owner of the Gore Parcel, transferring title of the Gore Parcel to Seller, and such allows Title Company to issue the Title Policy required under this Agreement, without any exceptions or limitations concerning ownership right of the City or any other governmental agency in the Gore Parcel or any deficiencies with respect to the Property including multiple tax parcels and include a single tax parcel endorsement.

3) Option 3: In the event it is reasonably determined by the parties and Title Company that Seller does not own fee title to the Gore Parcel (and has no claim to same through adverse possession), Seller may, without any consideration, including a reduction in the Purchase Price, cause the Gore Parcel to be removed from being a part of Tax Lot 106 (provided such removal is effectuated in accordance with

all applicable laws), and such allows Title Company to issue the Title Policy required under this Agreement for the Property (less and except the Gore Parcel) and including a single tax parcel endorsement.

4) Option 4: The production of documentation that establishes that Seller owns the Gore Parcel of record and allows Title Company to issue the Title Policy to Purchaser with Gore Parcel being a part of the insured estate, with such insurance being free of any and all title exceptions or limitations concerning ownership rights the City or other governmental agency may have in and to the Gore Parcel or any deficiencies with respect to the Property including multiple tax parcels and including a single tax parcel endorsement.

5) Option 5: A successful, final and non-appealable quiet title action (based on principals of adverse possession) from the parties specifically identified by Title Company as the fee owners of the Gore Parcel (to the extent Title Company has determined the City or other governmental agency (including MTA) are not the record owners nor have any ownership claim), provided such allows Title Company to issue the Title Policy to Purchaser with the Gore Parcel being a part of the insured estate, with such insurance being free of any and all title exceptions or limitations concerning ownership rights the City or other governmental agency may have in and to the Gore Parcel or any deficiencies with respect to the Property including multiple tax parcels and including a single tax parcel endorsement.

Section 7(j). No Rights of City. Notwithstanding anything in the Agreement to the contrary, that certain Title Exception (as defined below) with respect to any rights of the City to acquire the Property shall have been removed from the record. The term “Title Exception” shall mean the specific reserved rights of the City contained in the Deed made by and between Realty Associates, Frank Bailey, Marie Louise Bailey and Brooklyn Borough Gas Company, dated 4/20/1921, and recorded 4/21/1921 in Liber 4034 of Deeds, Page 76.” For the avoidance of doubt, this Closing condition shall be deemed satisfied if the City provides documentation (as contemplated in Section 7(h) and in accordance with the requirements set forth above with respect to Former 12<sup>th</sup> Street), to the extent in such documentation, the City also relinquishes all right, title and interest it may have in, to, under and as set forth in the Title Exception (now and in the future) and same is sufficient to remove the Title Exception from the record and in the Title Policy (in the form required by this Agreement), and (ii) such shall not be an exception to the Deed by which Seller transfers the Property to Purchaser at Closing.”

5. Title Policy. The Pro Forma Policy attached hereto as Schedule 4 and made a part hereof is the form of Title Policy that the Title Company has agreed to issue to Purchaser prior to the expiration of the Investigation Period, as contemplated in Section 5(a)(v) of the Agreement, provided that, notwithstanding anything in the Agreement to the contrary, it shall be a Closing condition (as contemplated in Section 7 of the Agreement) that the legal description of the Property satisfies the requirements of the Agreement, as amended hereby. For the avoidance of doubt, Title Company shall mean Royal Abstract, who may issue the Title Policy either in its capacity as agent for First American Title Insurance Company, Fidelity National Title Insurance Company or Chicago National Title Insurance Company.

6. Closing Date. Notwithstanding anything to the contrary contained in Section 8(a) of the Agreement, Seller and/or Purchaser shall have the right to extend the Closing Date for a period not to exceed one hundred eighty (180) days in order to allow for the satisfaction of the Closing conditions set forth in this Fifth Amendment, as a condition precedent to Purchaser’s obligation to purchase the Property.

7. Miscellaneous.



a. Except to the extent the Agreement is modified by this Fifth Amendment, the remaining terms and conditions of the Agreement shall remain unmodified and in full force and effect, and is hereby ratified by Purchaser and Seller.

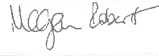
b. This Fifth Amendment may be executed in counterparts, each of which (or any combination of which) when signed by all of the parties shall be deemed an original, but all of which when taken together shall constitute one agreement. Executed copies hereof may be delivered by email and shall be deemed originals and binding upon the parties hereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the day and year first above written.

PURCHASER: **PROLOGIS, L.P.**,  
a Delaware limited partnership

By: Prologis, Inc., its general partner



By: \_\_\_\_\_

Name: Megan Robert

Title: Senior Vice President

SELLER: **THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

By: \_\_\_\_\_

Name: Steven Doben

Title: Authorized Representative

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the day and year first above written.

**PURCHASER:**      **PROLOGIS, L.P.,**  
a Delaware limited partnership

By:      Prologis, Inc., its general partner

By: \_\_\_\_\_  
Name: Megan Robert  
Title: Senior Vice President

**SELLER:**              **THE BROOKLYN UNION GAS COMPANY,**  
a New York corporation

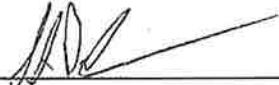
By:  \_\_\_\_\_  
Name: Steven Doben  
Title: Authorized Representative

Exhibit A

## Surveyed Legal Description

Note: To the extent the Gore Parcel is removed pursuant to the provisions of this Amendment, this legal description will be updated to reflect same.

ALL that certain plot, piece, or parcel of land, situate, lying, and being in the Borough of Brooklyn, Kings County, City and State of New York, bounded and described as follows:

COMMENCING at the intersection of the easterly line of Stillwell Avenue (mapped 100 feet wide) with the southerly line of Shore Parkway (variable width), and running the following four (4) courses along the said southerly line of Shore Parkway to the POINT or PLACE of BEGINNING;

- A. South 76°02'46" East, a distance of 432.42 feet to a point; thence.
- B. North 04°55'04" East, a distance of 49.82 feet to a point; thence
- C. South 84°30'10" East, a distance of 73.41 feet to a point; thence
- D. South 80°34'17" East, a distance of 163.62 feet to the POINT or PLACE of BEGINNING and running, thence;

South 80°34'17" East, along said southerly line Shore Parkway, a distance of 286.26 feet to a point on the westerly line of Lot 13; thence

Along Lot 13 the following ten (10) courses,

South 43°31'35" East, a distance of 61.79 feet to a point; thence  
 South 20°19'10" East, a distance of 45.69 feet to a point; thence  
 South 63°33'46" East, a distance of 27.47 feet to a point; thence  
 South 27°25'34" East, a distance of 37.73 feet to a point; thence  
 South 60°13'11" East, a distance of 31.32 feet to a point; thence  
 South 63°10'22" East, a distance of 29.73 feet to a point; thence  
 South 69°28'18" East, a distance of 20.57 feet to a point; thence  
 South 79°12'40" East, a distance of 24.01 feet to a point; thence  
 North 56°11'52" East, a distance of 45.21 feet to a point; thence  
 North 08°14'32" West, a distance of 113.83 feet to a point on the aforementioned southerly line of Shore Parkway; thence

South 80°34'17" East, along said southerly line Shore Parkway, a distance of 36.73 feet to a point; thence

Continuing along said southerly line Shore Parkway, on a curve to the left having a radius of 3,625.00 feet, and a central angle of 06°25'44" and being subtended by a chord which bears South 89°33'54" East, a distance of 406.53 feet, an arc length of 406.74 feet to a point on the westerly line of Lot 218; thence

Along Lot 218 the following four (4) courses,

South 63°12'12" East, a distance of 47.75 feet to a point; thence  
 South 75°50'02" East, a distance of 80.38 feet to a point; thence  
 North 82°25'28" East, a distance of 120.36 feet to a point; thence  
 South 80°19'02" East, a distance of 44.55 feet to a point on the mean high waterline of Coney Island Creek; thence

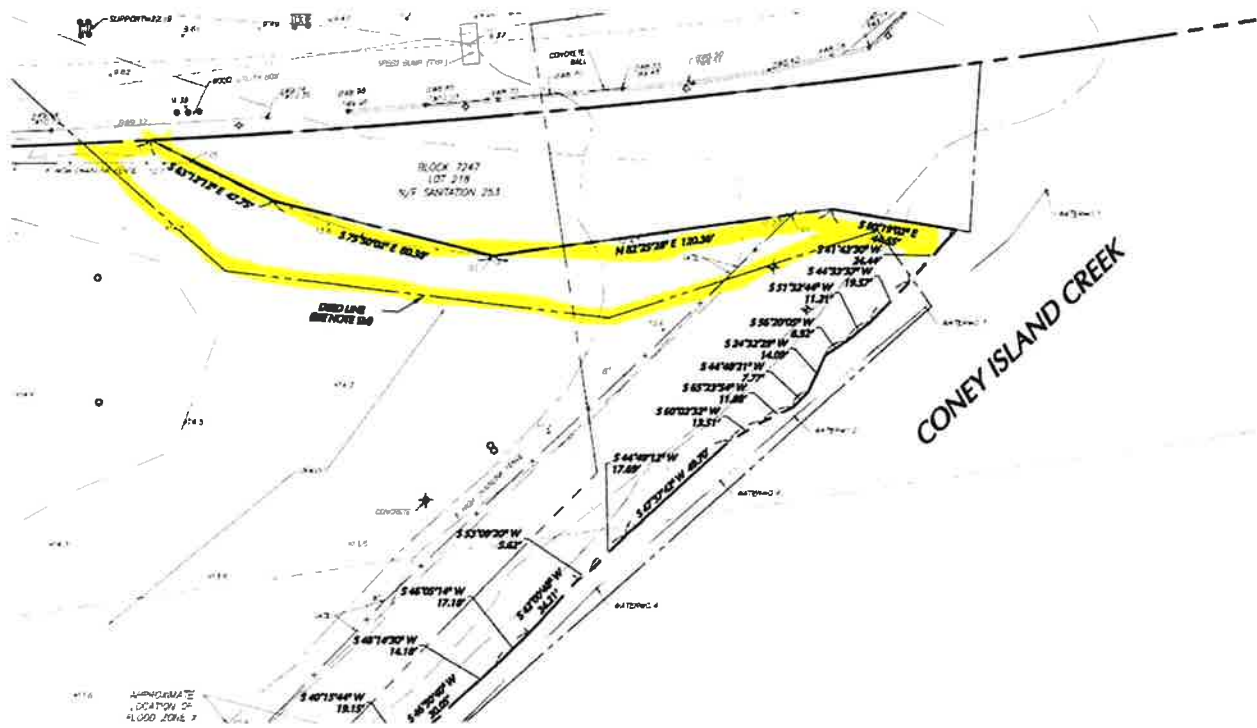
Along the mean high waterline of Coney Island Creek the following seventy one (71) courses,

South 41°42'30" West, a distance of 24.44 feet to a point; thence  
 South 44°33'37" West, a distance of 19.57 feet to a point; thence  
 South 51°32'44" West, a distance of 11.21 feet to a point; thence  
 South 56°20'05" West, a distance of 8.92 feet to a point; thence  
 South 24°32'29" West, a distance of 14.09 feet to a point; thence  
 South 44°48'21" West, a distance of 7.77 feet to a point; thence  
 South 65°23'54" West, a distance of 11.88 feet to a point; thence  
 South 60°02'32" West, a distance of 13.51 feet to a point; thence  
 South 47°57'42" West, a distance of 49.70 feet to a point; thence

South 44°49'12" West, a distance of 17.69 feet to a point; thence  
South 53°09'20" West, a distance of 5.62 feet to a point; thence  
South 42°00'48" West, a distance of 24.21 feet to a point; thence  
South 46°05'14" West, a distance of 17.18 feet to a point; thence  
South 48°14'30" West, a distance of 14.18 feet to a point; thence  
South 46°50'40" West, a distance of 20.05 feet to a point; thence  
South 40°15'44" West, a distance of 19.15 feet to a point; thence  
South 46°43'28" West, a distance of 35.43 feet to a point; thence  
South 44°20'09" West, a distance of 13.20 feet to a point; thence  
South 43°42'51" West, a distance of 41.69 feet to a point; thence  
South 44°36'05" West, a distance of 20.85 feet to a point; thence  
South 57°24'19" West, a distance of 6.23 feet to a point; thence  
South 45°42'12" West, a distance of 31.38 feet to a point; thence  
South 39°27'55" West, a distance of 23.12 feet to a point; thence  
South 45°03'36" West, a distance of 50.48 feet to a point; thence  
South 47°27'18" West, a distance of 63.69 feet to a point; thence  
South 45°41'19" West, a distance of 46.00 feet to a point; thence  
South 39°42'54" West, a distance of 18.96 feet to a point; thence  
South 43°57'31" West, a distance of 21.40 feet to a point; thence  
South 39°23'07" West, a distance of 21.64 feet to a point; thence  
South 51°39'30" West, a distance of 5.75 feet to a point; thence  
South 62°32'54" West, a distance of 5.30 feet to a point; thence  
South 43°45'11" West, a distance of 11.97 feet to a point; thence  
South 46°56'31" West, a distance of 24.01 feet to a point; thence  
South 41°15'02" West, a distance of 14.44 feet to a point; thence  
South 35°06'45" West, a distance of 9.35 feet to a point; thence  
South 24°22'57" West, a distance of 4.29 feet to a point; thence  
South 40°30'43" West, a distance of 17.57 feet to a point; thence  
South 43°37'44" West, a distance of 9.45 feet to a point; thence  
South 29°59'10" West, a distance of 15.99 feet to a point; thence  
South 32°18'00" West, a distance of 7.32 feet to a point; thence  
South 42°41'55" West, a distance of 21.00 feet to a point; thence  
South 40°53'54" West, a distance of 10.61 feet to a point; thence  
South 47°07'30" West, a distance of 20.86 feet to a point; thence  
South 62°41'56" West, a distance of 10.43 feet to a point; thence  
North 89°59'30" West, a distance of 14.05 feet to a point; thence  
North 75°10'26" West, a distance of 10.86 feet to a point; thence  
North 73°38'44" West, a distance of 14.80 feet to a point; thence  
North 87°32'52" West, a distance of 8.68 feet to a point; thence  
South 67°24'04" West, a distance of 30.10 feet to a point; thence  
South 57°58'47" West, a distance of 23.86 feet to a point; thence  
South 51°08'29" West, a distance of 18.44 feet to a point; thence  
South 44°27'12" West, a distance of 21.83 feet to a point; thence  
South 53°31'01" West, a distance of 7.21 feet to a point; thence  
South 31°04'42" West, a distance of 12.83 feet to a point; thence  
South 29°16'16" West, a distance of 6.77 feet to a point; thence  
South 81°02'28" West, a distance of 11.37 feet to a point; thence  
South 45°53'52" West, a distance of 32.75 feet to a point; thence  
South 48°53'53" West, a distance of 37.53 feet to a point; thence  
North 87°46'41" West, a distance of 8.38 feet to a point; thence  
South 58°52'26" West, a distance of 8.58 feet to a point; thence  
South 03°30'02" East, a distance of 11.44 feet to a point; thence  
South 66°08'04" West, a distance of 146.62 feet to a point; thence  
North 83°06'08" West, a distance of 14.04 feet to a point; thence

North 56°18'21" West, a distance of 138.35 feet to a point; thence  
North 60°34'50" West, a distance of 94.17 feet to a point; thence  
North 55°43'01" West, a distance of 46.67 feet to a point; thence  
North 47°23'27" West, a distance of 27.58 feet to a point; thence  
North 34°15'14" West, a distance of 136.83 feet to a point; thence  
North 00°08'05" West, a distance of 24.18 feet to a point; thence  
North 33°36'48" West, a distance of 156.74 feet to a point; thence  
North 46°01'16" West, a distance of 56.40 feet to a point on the easterly line of Lot 30; thence  
Along Lot 30 the following two (2) courses,  
North 17°24'37" East, a distance of 174.76 feet to a point; thence  
North 28°46'13" East, a distance of 316.61 feet to the POINT OR PLACE of BEGINNING.

Encompassing an area of 730,989 square feet or 16.781 acres, more or less.



Schedule 4

Pro Forma Policy

[See Attached.]



**PRO FORMA**  
**TITLE INSURANCE POLICY ONLY**  
**Not effective until executed by authorized  
signatory.**

**915462**

**ROYAL ABSTRACT OF NEW YORK LLC**

This is a pro forma policy, which provides no insurance coverage to, or on behalf of, the proposed insured. It does not grant insurance nor bind the underwriter to insure in accordance with the terms of the pro forma. The failure to include certain exceptions therein does not constitute a waiver by the underwriter. It is understood that all title and other searches must be continued through the date of closing and exceptions taken in the final title policy for all matters disclosed thereby. This policy does not reflect the present condition of title, but rather indicates the form and content of the policy which the Company expects to issue when all necessary documents have been furnished, requirements met, and all acts performed, all to the satisfaction of the Company. Issuance of the final policy will be contingent upon payment of all premiums.

***Chicago Title Insurance Company******AMERICAN LAND TITLE ASSOCIATION OWNERS POLICY (6-17-2006)*****SCHEDULE A**

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**Policy No. PROFORMA**

<b>Title Number</b>	<b>Effective Date</b>	<b>Amount of Insurance</b>
<b>915462</b>		<b>\$00 Insert</b>
		<b>\$51,000,000</b>

- 1. Name of Insured:** LLC To Be Formed
- 2. The estate or interest in the land that is covered by this policy is:** Fee Simple
- 3. Title is vested by:**

LLC To Be Formed who acquired title by deed from The Brooklyn Union Gas Company (d/b/a National Grid NY) dated and recorded in the Office of the Clerk/Register of the County of Kings.

- 4. The land referred to in this Policy is described herein on Schedule A Description of Premises.**

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**Authorized Signatory**

*Chicago Title Insurance Company*

**Policy No.** PROFORMA

**Title No.** 915462

**SCHEDULE A  
DESCRIPTION OF PREMISES**

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**ALL THAT CERTAIN** plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, known and designated as Lot 106 in Block 7247 on the Tax Map of the City of New York, as same existed on July 23, 2019.

**NOTE: Company must be provided a metes and bounds upon confirmation that vesting deeds are the same land as shown on the Survey.**

For Information Only: Said premises are known as 2731 West 12th Street, Brooklyn, NY and designated as Block 7247 Lot 106 as shown on the Tax Map of the City of New York, County of Kings.

*Chicago Title Insurance Company***Policy No.** PROFORMA**Title No.** 915462**SCHEDULE B**

Showing defects, liens, encumbrances and other matters against which the Company does not, by this Policy, insure:

1. Covenants and Restrictions set forth in Deed dated 10/13/1886 and recorded 11/1/1886 in Liber 1698 of Deeds, Page 22.

This Policy insures against loss or damage resulting from the enforcement against the Land of any rights provided for in said Right of Way Agreement.

2. Right of Way Agreement made by and between George Stillwell, Mary Parker and Charles J. Lawless dated 12/19/1896 and recorded 2/5/1897 in Liber 3 Section 21 Page 305.

This Policy insures against loss or damage resulting from the enforcement against the Land of any rights provided for in said Right of Way Agreement.

3. Right of Way Agreement made by and between Mary Parker and Charles J. Lawless recorded 2/5/1897 in Liber 3 Section 21 Page 307.

This Policy insures against loss or damage resulting from the enforcement against the Land of any rights provided for in said Right of Way Agreement.

4. ~~Rights of the City of New York contained in Deed made by and between Realty Associates, Frank Bailey, Marie Louise Bailey and Brooklyn Borough Gas Company, dated 4/20/1921 and recorded 4/21/1921 in Liber 1034 of Deeds, Page 76.~~

5. ~~Covenants and Restrictions set forth in Deed made by The City of New York to Brooklyn Borough Gas Company dated 10/21/1947 and recorded 10/29/1947 in Liber 7209 of Deeds, Page 97.~~

This will be omitted upon receipt of Deed/Release from City.

6. Fee Taking/Easements acquired by The City of New York by condemnation proceeding for the acquisition of a Temporary and Exclusive Easement and to acquire real property east of Stillwell Avenue between Coney Island Creek and Shore Parkway, for which an Order was entered in the Supreme Court of the County of Kings under Index No. 18979/1967.

A) Final Decree dated 9/3/1968 and recorded 1/20/1969 in Reel 304 Page 1908.

7. Declaration of Covenants and Restrictions made by The Brooklyn Union Gas Company dated 6/3/1995 and recorded 6/5/1995 in Reel 3524 Page 2379.

8. Terms, Covenants, Conditions and Provisions set forth an unrecorded Order on Consent dated as of 5/12/1995.

Note: Said unrecorded Consent Order was referenced in Declaration of Covenants and Restrictions recorded in Reel 3524 Page 2379.

9. Terms, Covenants, Conditions and Provisions set forth in Environmental Notice made by The New York State Department of Environmental Conservation dated 3/1/2012 and recorded 6/8/2012 in CRFN 2012000235857.

**SCHEDULE B**

*Chicago Title Insurance Company***Policy No.** PROFORMA**Title No.** 915462**SCHEDULE B**

---

10. No title is insured to any land lying below the present or former high water line of Coney Island Creek, its arms, branches or tributaries by whatever name called.
11. Except the rights of the United States Government to establish harbor, bulkhead, or pierhead lines or to change or alter any such existing lines, and to remove, or complete the removal of fill and improvements thereon, (including buildings or other structures) from land lying below the present or any former high water line of Coney Island Creek, its arms, branches or tributaries by whatever name called, without compensation to the insured.
12. Rights of the People of the State of New York or City of New York in those portions of the premises below the present or any former high water line of Coney Island Creek, its arms, branches or tributaries by whatever name called.
13. Riparian Rights and Easements of others to and over Coney Island Creek, but policy does not insure any Riparian Rights or Easements in favor of the owner of the premises herein.
14. Rights of the public generally to and over those lands lying below the present high water mark of Coney Island Creek.
15. Parts of the described premises were formerly parts of West 11th Street and West 12th Street. Policy excepts possible public and private easements for utilities, and access to those utilities, in and to the bed of said portions of said former streets. including but not limited to water, sewer, telephone, electricity, gas and cable over and along same

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16. Survey reading to follow.

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17. Mortgage to follow.

**Chicago Title Insurance Company****STANDARD NEW YORK ENDORSEMENT  
(OWNER'S POLICY)**

---

Title No. **915462**Attached to and made a part of Policy No. **PROFORMA**

## 1. The following is added as a Covered Risk:

"11. Any statutory lien arising under Article 2 of the New York Lien Law for services, labor or materials furnished prior to the date hereof, and which has now gained or which may hereafter gain priority over the estate or interest of the insured as shown in Schedule A of this policy."

## 2. Exclusion Number 5 is deleted, and the following is substituted:

5. Any lien on the Title for real estate taxes, assessments, water charges or sewer rents imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as Shown in Schedule A.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

**DATED:****Chicago Title Insurance Company**

By \_\_\_\_\_  
Authorized Signatory

***Chicago Title Insurance Company***

**WAIVER OF ARBITRATION ENDORSEMENT  
(OWNER'S OR LOAN POLICY)**

---

Title No. **915462**

Attached to and made a part of Policy No. **PROFORMA**

The policy is amended by deleting therefrom:

- (A) If this endorsement is attached to an ALTA Loan Policy: Condition 13.
- (B) If this endorsement is attached to an ALTA Owner's Policy: Condition 14.
- (C) If this endorsement is attached to a TIRSA Owner's Extended Protection Policy: Condition 12.

This endorsement is made a part of the Policy and is subject to all of the terms and provisions thereof and of any other endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the Policy and any other endorsements, nor does it extend the effective date of the Policy and any other endorsements, nor does it increase the face amount thereof.

**DATED:**

**Chicago Title Insurance Company**

By \_\_\_\_\_  
Authorized Signatory

**Chicago Title Insurance Company****ACCESS ENDORSEMENT**

---

Title No. **915462**Attached to and made a part of Policy No. **PROFORMA**

The Policy hereby insures against loss which the Insured shall sustain in the event that the described land does not abut upon a physically open public street known as Leif Ericson Drive.

This endorsement is made a part of the Policy and is subject to all of the terms and provisions thereof and of any other endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the Policy and any other endorsements, nor does it extend the effective date of the Policy and any other endorsements, nor does it increase the face amount thereof.

**DATED:****Chicago Title Insurance Company**

By \_\_\_\_\_  
Authorized Signatory



***Chicago Title Insurance Company***

**LAND SAME AS SURVEY ENDORSEMENT**

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Title No. **915462**

Attached to and made a part of Policy No. **PROFORMA**

The Policy insures against loss by reason of the land not being the same as delineated on plat of a survey made by \* dated or last redated on \*.

The total liability of the Company under the policy and any endorsement thereto shall not exceed, in the aggregate, the face amount of said policy and costs which the Company is obligated under the Conditions thereof to pay.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

**DATED:**

**Chicago Title Insurance Company**

By \_\_\_\_\_  
Authorized Signatory

**Chicago Title Insurance Company****TAX PARCEL ENDORSEMENT  
Single Tax Lot**

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Title No. **915462**Attached to and made a part of Policy No. **PROFORMA**

The Policy insures against loss or damage which the insured may sustain by reason that the land described in Schedule A is not assessed for real estate tax purposes as a separate tax lot which includes no other land.

This endorsement is made a part of the Policy and is subject to all of the terms and provisions thereof and of any other endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the Policy and any other endorsements, nor does it extend the effective date of the Policy and any other endorsements, nor does it increase the face amount thereof.

**DATED:****Chicago Title Insurance Company**

By \_\_\_\_\_  
Authorized Signatory