

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

**AMENDED AND RESTATED
TAX ABATEMENT AGREEMENT**

This Amended and Restated Tax Abatement Agreement (the “Amended Agreement”) is entered into by and between the City of Coppell, Texas (the “City”), and ProLogis, LP, a Delaware limited partnership (the “Owner”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

W I T N E S S E T H:

WHEREAS, the Parties previously entered into that certain Tax Abatement Agreement dated June 10, 2014 (the “Original Agreement”); and

WHEREAS, the Parties desire to amend and restate the Original Agreement as it relates to the size and value of the Improvements; and

WHEREAS, the City Council of the City of Coppell, Texas (the “City Council”), passed an Ordinance (the “Ordinance”) establishing Tax Abatement Reinvestment Zone No. 91 (the “Zone”), for commercial/industrial tax abatement, as authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code, as amended (the “Tax Code”); and

WHEREAS, the City has adopted guidelines for tax abatement (the “Tax Abatement Guidelines”); and

WHEREAS, the Tax Abatement Guidelines contain appropriate guidelines and criteria governing tax abatement agreements to be entered into by the City as contemplated by the Tax Code; and

WHEREAS, the City has adopted a resolution stating that it elects to be eligible to participate in tax abatement; and

WHEREAS, in order to maintain and enhance the commercial and industrial economic and employment base of the Coppell area, it is in the best interests of the taxpayers for the City to enter into this Agreement in accordance with said Ordinance, the Tax Abatement Guidelines and the Tax Code; and

WHEREAS, Owner owns or is under contract to purchase approximately 12.98 acres of land in Prologis Park, 121 Freeport Parkway and Highway 121, Coppell, Texas, being further described in Exhibit “A” (“Land”), and intends to construct, or cause to be constructed, a shell industrial building containing approximately 144,465 square feet of space (hereinafter defined as the “Improvements”) on the Land; and

WHEREAS, Owner’s development efforts described herein will create permanent new jobs in the City; and

WHEREAS, the City Council finds that the contemplated use of the Premises (hereinafter defined), and the contemplated Improvements are consistent with encouraging development of the Zone in accordance with the purposes for its creation and/or in compliance with the Tax Abatement Guidelines, the Ordinance adopted by the City, the Tax Code and all other applicable laws; and

WHEREAS, the City Council finds that the Improvements sought are feasible and practicable and would be of benefit to the Premises to be included in the Zone and to the City after expiration of this Agreement; and

WHEREAS, a copy of this Agreement has been furnished, in the manner prescribed by the Tax Code, to the presiding officers of the governing bodies of each of the taxing units in which the Premises is located;

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, including the expansion of primary employment, the attraction of major investment in the Zone, which contributes to the economic development of Coppell and the enhancement of the tax base in the City, the Parties agree as follows:

Article I Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Bankruptcy or Insolvency” shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of receiver for any part of a Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party, and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Base Year Taxable Value” shall mean the Taxable Value for the Land for the year in which the Tax Abatement Agreement is executed.

“City” shall mean the City of Coppell, Texas.

“Commencement of Construction” shall mean that: (i) the plans have been prepared and all approvals thereof and permits with respect thereto required by applicable governmental authorities have been obtained for construction of the Improvements; (ii) all necessary permits for the construction of the Improvements on the Land pursuant to the respective plans therefore having been issued by all applicable governmental authorities; and (iii) grading of the Land or the construction of the vertical elements of the Improvements has commenced.

“Completion of Construction” shall mean: (i) substantial completion of the Improvements; and (ii) a final certificate of occupancy has been issued for the Improvements.

“Effective Date” shall mean the last date of execution of this Agreement.

“Expiration Date” shall mean March 1 of the calendar year following the fifth (5th) anniversary date of the First Year of Abatement.

“First Year of Abatement” shall mean January 1 of the calendar year immediately following the date of Completion of Construction.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action (unless caused by acts or omissions of such Party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“Improvements” shall mean a shell industrial building containing approximately 144,465 square feet of space upon Completion of Construction thereof on the Land, and other ancillary facilities such as reasonably required parking and landscaping more fully described in the submittals filed by Owner with the City, from time to time, in order to obtain a building permit(s), provided, however, that “Improvements” shall not include the Land.

“Land” means the real property described in Exhibit “A”.

“Owner” shall mean ProLogis, LP, a Delaware limited partnership.

“Premises” shall mean collectively, the Land and Improvements following construction thereof.

“Related Agreement” shall mean any other agreement by and between the City and the Owner, its parent company, and any affiliated or related entity owned or controlled by the Owner, or its parent company.

“Taxable Value” means the appraised value as certified by the applicable Appraisal District (or its successor) as of January 1 of a given year.

Article II

General Provisions

2.1 Owner is the owner of the Land, or is under contract to purchase the Land, which Land is located within the city limits of the City and within the Zone. Owner intends to construct, or cause to be constructed, the Improvements on the Land.

2.2 The Premises are not in an improvement project financed by tax increment bonds.

2.3 This Agreement is entered into subject to the rights of the holders of outstanding bonds of the City.

2.4 The Premises are not owned or leased by any member of the Coppel City Council or any member of the Coppel Planning and Zoning Commission.

2.5 Owner shall, before May 1, of each calendar year that the Agreement is in effect, certify in writing to the City that it is in compliance with each term of the Agreement.

2.6 The Land and the Improvements constructed thereon at all times shall be used in the manner (i) that is consistent with the City's Comprehensive Zoning Ordinance, as amended, and (ii) that, during the period taxes are abated hereunder, is consistent with the general purposes of encouraging development or redevelopment within the Zone.

Article III Tax Abatement Authorized

3.1 This Agreement is authorized by the Tax Code and in accordance with the City Tax Abatement Guidelines, and approved by resolution of the City Council.

3.2 Subject to the terms and conditions of this Agreement, and provided the Taxable Value for the Improvements, excluding the Land, is at least Three Million Five Hundred Thousand Dollars (\$3,500,000.00) as of January 1 of the First Year of Abatement and as of January 1 of each calendar year thereafter during the term of this Agreement, the City hereby grants Owner an abatement of seventy-five percent (75%) of the Taxable Value of the Improvements for a period of five (5) consecutive years, beginning with the First Year of Abatement. The foregoing percentage of Taxable Value of the Improvements subject to abatement for each year this Agreement is in effect will apply only to the portion of the Taxable Value of the Improvements that exceeds the Base Year Taxable Value.

3.3 The period of tax abatement herein authorized shall be for a period of five (5) consecutive years beginning with the First Year of Abatement.

3.4 During the period of tax abatement herein authorized, Owner shall be subject to all taxation not abated, including but not limited to, sales tax and ad valorem taxation on the Land.

3.5 The term of this Agreement shall begin on the Effective Date and shall continue until the Expiration Date, unless sooner terminated as provided herein.

Article IV Improvements

4.1 Owner owns or is under contract to purchase the Land and intends to construct or cause to be constructed thereon the Improvements. Nothing in this Agreement shall obligate

Owner to construct the Improvements on the Land, but said actions are conditions precedent to tax abatement for such Parties pursuant to this Agreement.

4.2 As a condition precedent to the initiation of the Owner's tax abatement pursuant to this Agreement, Owner agrees, subject to events of Force Majeure, to cause Commencement of Construction of the Improvements to occur within forty-eight (48) months after the Effective Date, and subject to events of Force Majeure to cause Completion of Construction of the Improvements to occur on or before eighteen (18) months thereafter, as good and valuable consideration for this Agreement, and that all construction of the Improvements will be in accordance with all applicable state and local laws, codes, and regulations (or valid waiver thereof).

4.3 Construction plans for the Improvements constructed on the Land will be filed with the City, which shall be deemed to be incorporated by reference herein and made a part hereof for all purposes.

4.4 Owner agrees to maintain the Improvements during the term of this Agreement in accordance with all applicable state and local laws, codes, and regulations.

4.5 The City, its agents and employees shall have the right of access to the Premises during and following construction to inspect the Improvements at reasonable times and with reasonable notice to Owner, and in accordance with visitor access and security policies of the Owner, in order to insure that the construction of the Improvements are in accordance with this Agreement and all applicable state and local laws and regulations (or valid waiver thereof).

Article V

Default: Recapture of Tax Revenue

5.1 In the event: (i) Owner fails to cause Commencement and/or Completion of Construction of the Improvements in accordance with this Agreement or in accordance with applicable State or local laws, codes or regulations; (ii) has delinquent ad valorem or sales taxes owed to the City (provided Owner retains its right to timely and properly protest such taxes or assessment); (iii) has an event of Bankruptcy or Insolvency; or (iv) breaches any of the terms and conditions of this Agreement, or a Related Agreement, then Owner, after the expiration of the notice and cure periods described below, shall be in default of this Agreement. As liquidated damages in the event of such default, the Owner shall, within thirty (30) days after demand, pay to the City all taxes which otherwise would have been paid by the Owner to the City without benefit of a tax abatement, for the property the subject of this Agreement at the statutory rate for delinquent taxes as determined by Section 33.01 of the Tax Code, as amended, but without penalty. The Parties acknowledge that actual damages in the event of default termination would be speculative and difficult to determine. The Parties further agree that any abated tax, including interest, as a result of this Agreement, shall be recoverable against the Owner, its successors and assigns and shall constitute a tax lien against the Premises, and shall become due, owing and shall be paid to the City within thirty (30) days after notice of termination.

5.2 Upon breach by Owner of any of the obligations under this Agreement, the City shall notify Owner in writing, which shall have thirty (30) days from receipt of the notice in which to cure any such default. If the default cannot reasonably be cured within such 30-day period, and the Owner has diligently pursued such remedies as shall be reasonably necessary to cure such default, then the City may extend the period in which the default must be cured.

5.3 If the Owner fails to cure the default within the time provided as specified above or, as such time period may be extended, the City, at its sole option, shall have the right to terminate this Agreement by providing written notice to the Owner.

5.4 Upon termination of this Agreement by City, all tax abated as a result of this Agreement, shall become a debt to the City as liquidated damages, and shall become due and payable not later than thirty (30) days after a notice of termination is provided. The City shall have all remedies for the collection of the abated tax provided generally in the Tax Code for the collection of delinquent property tax. The City at its sole discretion has the option to provide a repayment schedule. The computation of the abated tax for the purposes of the Agreement shall be based upon the full Taxable Value of the Improvements without tax abatement for the years in which tax abatement hereunder was received by the Owner, as determined by the Appraisal District, multiplied by the tax rate of the years in question, as calculated by the City Tax Assessor-Collector. The liquidated damages shall incur penalties as provided for delinquent taxes and shall commence to accrue after expiration of the thirty (30) day payment period.

Article VI

Annual Application for Tax Exemption

It shall be the responsibility of the Owner, pursuant to the Tax Code, to file an annual exemption application form for the Improvements with the Chief Appraiser for the Appraisal District (or its successor) in which the eligible taxable property has situs. A copy of the respective exemption application shall be submitted to the City upon request.

Article VII

Annual Rendition

The Owner shall annually render the value of the Improvements to the Appraisal District, and shall provide a copy of the same to the City upon written request.

Article VIII

Miscellaneous

8.1 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered:

If intended for City, to:

Attn: City Manager
City of Coppell, Texas
P. O. Box 478
Coppell, Texas 75019

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Owner, to:

Attn: Market Officer
ProLogis, LP
Suite 2450
2501 N. Harwood Street
Dallas, Texas 75201

8.2 Authorization. This Agreement was authorized by resolution of the City Council approved by its Council meeting authorizing the Mayor to execute this Agreement on behalf of the City.

8.3 Severability. In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the Parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

8.4 Governing Law. This Agreement shall be governed by the laws of the State of Texas without regard to any conflict of law rules. Exclusive venue for any action under this Agreement shall be the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

8.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

8.6 Entire Agreement. This Agreement embodies the complete agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the Parties to be attached to and made a part of this Agreement.

8.7 Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.

8.8 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

8.9 Assignment. This Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. This Agreement may not be assigned by the Owner without the prior written consent of the City Manager.

8.10 Employment of Undocumented Workers. During the term of this Agreement, the Owner agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), the Owner shall repay the taxes abated herein, and any other funds received by the Owner from the City as of the date of such violation within 120 days after the date the Owner is notified by the City of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid.

8.11 Right of Offset. The City may at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to the City from the Owner, regardless of whether the amount due arises pursuant to the terms of this Agreement or otherwise and regardless of whether or not the debt due the City has been reduced to judgment by a court.

8.12. Conditions Precedent. This Agreement is subject to and contingent upon the Owner closing its purchase of the Land on or before November 1, 2014.

[Signature page to follow]

EXECUTED in duplicate originals the ____ day of _____, 201__.

CITY OF COPPELL, TEXAS

By: _____
Karen Selbo Hunt, Mayor

Attest:

By: _____
Christel Pettinos, City Secretary

Agreed as to Form:

By: _____
City Attorney

EXECUTED in duplicate originals the ____ day of _____, 201__.

PROLOGIS, LP

By: _____
Reid Dunbar, Senior Vice President.

Exhibit "A"
LEGAL DESCRIPTION

LOT 5

BEING a tract of land situated in the John E. Holland Survey, Abstract Number 614, City of Coppell, Dallas County, Texas, being part of that tract of land described in special warranty deed to William F. Callejo, Trustee, as recorded in Volume 80004, Page 1835 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for the northeast corner of that tract of land described in deed to State of Texas recorded in Instrument Number 201200052841 of the Official Public Records of Dallas County, Texas, said point being on the southeast right-of-way line of State Highway 121 (variable width right-of-way) and on the south line of One Twenty One Business Park, an addition to the City of Coppell, Dallas County, Texas, as recorded in Volume 99157, Page 27 of the Map Records of Dallas, County, Texas;

THENCE South 41 degrees 19 minutes 31 seconds West, with the southeast right-of-way line of said State Highway 121, a distance of 133.80 feet to a point for corner;

THENCE South 37 degrees 38 minutes 34 seconds West, continuing with said southeast right-of-way line of State Highway 121, a distance of 145.94 feet to a point for corner;

THENCE South 22 degrees 13 minutes 12 seconds East, continuing with said southeast right-of-way line of State Highway 121, a distance of 85.52 feet to a point for corner;

THENCE South 47 degrees 59 minutes 49 seconds East, continuing with said southeast right-of-way line of State Highway 121, a distance of 75.82 feet to a point for corner;

THENCE South 43 degrees 05 minutes 17 seconds West, continuing with said southeast right-of-way line of State Highway 121, a distance of 23.31 feet to a point for corner;

THENCE South 43 degrees 03 minutes 49 seconds West, continuing with said southeast right-of-way line of State Highway 121, a distance of 123.41 feet to a point for corner;

THENCE South 49 degrees 15 minutes 00 seconds East, departing said southeast right-of-way line of State Highway 121 and over and across said Callejo tract, a distance of 32.60 feet to a point for corner, said corner being the point of curvature of a non-tangent circular curve to the left having a radius of 1,200.00 feet, chord that bears South 53 degrees 05 minutes 17 seconds East, a distance of 160.64 feet;

THENCE Northwesterly, continuing over and across said Callejo tract and with said curve, through a central angle of 07 degrees 40 minutes 33 seconds, an arc distance of 160.76 feet to a point for corner;

THENCE South 56 degrees 55 minutes 33 seconds East, continuing over and across said Callejo tract, a distance of 129.84 feet to a 1/2-inch set iron rod with cap for the POINT OF BEGINNING of the tract of land herein described

THENCE South 56 degrees 55 minutes 33 seconds East, continuing over and across said Callejo tract, a distance of 398.24 feet to a 1/2-inch set iron rod with cap corner, said corner being the point of curvature of a non-tangent circular curve to the right having a radius of 1,145.00 feet, whose chord bears South 45 degrees 13 minutes 22 seconds East, a distance of 401.21 feet;

THENCE Southeasterly, continuing over and across said Callejo tract and with said curve, through a central angle of 20 degrees 10 minutes 51 seconds, an arc distance of 403.29 feet to a 1/2-inch set iron rod with cap corner;

THENCE South 35 degrees 07 minutes 56 seconds East, a distance of 263.08 feet to a 1/2-inch set iron rod with cap corner, said corner being on the north line of that tract of land described in special warranty deed to Coppell Trade Center, L.P., as recorded in Volume 2004244, Page 9738, O.P.R.D.C.T.;

THENCE South 89 degrees 36 minutes 46 seconds West, with said north line of Coppell tract, a distance of 1,134.63 feet to a 1/2-inch set iron rod with cap for corner;

THENCE North 89 degrees 52 minutes 56 seconds West, continuing with said north line of Coppell tract, a distance of 296.12 feet to a 1/2-inch set iron rod with cap for an "ell" corner of said Callejo tract;

THENCE North 42 degrees 27 minutes 40 seconds East, departing said north line of Coppell tract and over and across said Callejo tract, a distance of 978.86 feet to the POINT OF BEGINNING AND CONTAINING 12.98 acres (565,382 square feet) of land, more or less.