

General Terms and Conditions for Purchase of Goods and Services
Effective June 2024

These General Terms and Conditions of Purchase of Goods and Services (these “Terms”) are entered into by and between Prologis L.P. a Delaware Limited Partnership (collectively with its Affiliates, “Prologis”), and the party to whom the applicable Contract is addressed (“Seller”) and shall apply to each Purchase Orders (“PO”) or other written agreement for goods and services which references these Terms as of the Effective Date. Prologis and Seller are each referred to herein as a “Party” and collectively as the “Parties.”

1. **Offer/Acceptance.**

1.1 **Contract.** Upon the earlier of (a) the date that the parties execute a written agreement, including as applicable, any Statement of Work (“SOW”) or a Master Purchase Agreement for Goods and Services which includes relevant SOW’s under such master agreement, or (b) Seller’s acceptance of a PO (as set forth in [Section 1.2\(b\)](#)), the terms of such PO or other written agreement, together with these Terms and any other applicable agreements, will form a binding contract between Prologis and Seller (the “Contract”). Acceptance is expressly limited to the terms of the Contract. No purported acceptance of any purchase order or other written agreement on terms and conditions which modify, supersede, supplement or otherwise alter these Terms shall be binding upon Prologis and such terms and conditions are expressly rejected and replaced by these Terms unless Seller’s offered alternative terms or conditions are agreed in writing by Prologis, notwithstanding Prologis’s acceptance of or payment for any shipment of Goods or similar act of Prologis.

1.2 **Purchase Order.**

- a. For the avoidance of doubt, a PO does not constitute an acceptance by Prologis of any offer or proposal by Seller, whether in Seller’s quotation, acknowledgement, invoice or otherwise. If any Seller quotation or proposal is held to be an offer, that offer is expressly rejected and is replaced in its entirety by the offer set forth in the applicable Contract. By accepting the PO, Seller agrees that it is willing and able to provide the Services and/or Goods referenced in such PO during the period reference therein.
- b. Each PO (and the terms and conditions which relate to such PO, including these Terms) shall be deemed accepted by Seller by (i) written acceptance (which may occur electronically), (ii) shipment of Goods, performance of Services, or commencement of work on Goods, or (iii) any other conduct of Seller that recognizes the existence of a contract pertaining to the subject matter hereof. If Seller objects to any of the terms in the PO, Seller shall inform Prologis and propose alternative terms. If Prologis accepts such alternative terms, Prologis shall issue a revised PO that includes such alternative terms. If a revised PO is not issued by Prologis, the Parties acknowledge and agree that such alternative terms are expressly rejected.

1.3 **Order of Precedence.** In the event of a conflict between or among any document comprising the Contract, the terms of the applicable document will prevail in a descending order as follows: (a) an amendment issued by Prologis (if any), (b) the PO, (c) any written agreement between Prologis and Seller, including an SOW and/or Master Purchase Agreement for Goods and Services and (d) these Terms.

2. **Price; Fees; Payment.**

2.1 **Price and Fees.** The purchase price and/or fees charged for Products and the associated payment schedules or other applicable terms shall be set forth in the Contract. The purchase price and/or fees listed on the Contract are (a) not subject to increase (including any increase based upon currency fluctuations, changes in raw material or component pricing, labor or overhead), unless specifically agreed to by Prologis in writing, (b) inclusive of taxes, if any, as set forth in [Section 2.3](#), and any duties applicable to provision of the Products, and (c) inclusive of all storage, handling, packaging, labeling, shipping and all other expenses and charges.

2.2 **Payment Terms.** Except as otherwise provided in the Contract, Prologis shall pay Seller for undisputed, accepted Products. For Services, in addition to the fees paid under [Section 2.1](#), Prologis agrees to reimburse Seller for out-of-pocket expenses as provided in the Contract or pre-approved by Prologis in writing, subject to Prologis’s travel or other applicable policies. Seller shall provide to Prologis all documentation reasonably requested by Prologis to support the price and fees and Prologis reimbursable out-of-pocket expenses incurred by Seller. No amounts other than those specified in the Contract shall be payable by Prologis to Seller.

Unless otherwise specified in the Contract, Seller shall invoice Prologis on the first day of each calendar month. All payments of undisputed invoices are due Net 30 from the date of receipt of invoice, provided, however, Prologis may withhold payment for any invoiced charges that Prologis disputes in good faith. Prologis may set off any amount owed by Seller or any of its affiliated companies to Prologis against any amount owed by Prologis under the Contract. Payment of charges shall not be deemed an approval of such charges or acceptance of non-conforming Products, and Prologis may later dispute such charges, and payment of charges shall not relieve Seller of any of its warranties or other obligations under the Contract, or limit or affect any rights or remedies of Prologis.

2.3 Taxes. Unless prohibited by Law or stated in the Contract, Seller shall pay all federal, state or local tax, transportation tax, or other tax, including customs duties and tariffs, which is required to be imposed upon the Products ordered, or by reason of their sale, delivery or performance of Services. All Contract prices and/or fees shall be deemed to have included all such taxes. Prologis shall withhold all applicable taxes from amounts payable to Seller, without liability to Seller therefor, if such withholding is required by Law. If Seller is required by Law to pay or collect from Prologis any taxes or charges, Seller will provide a separate invoice to Prologis for such taxes or charges, subject to Prologis's rights under Section 2.2.

2.4 Invoices. All invoices will be issued in the currency set forth in the Contract. All invoices for Goods provided must reference as applicable, the Goods, Seller's name and number and where applicable the Prologis's or Seller's part number, quantity of pieces in shipment, number of cartons or containers and bill of lading number, before any payment will be made for Goods by Prologis. In addition, no invoice may reference any term separate from or different than these Terms or the terms that appear on the face of the PO. Prologis reserves the right to return all invoices or related documents submitted incorrectly. Payment terms will commence upon the receipt and input of a correct invoice. Any payment by Prologis of a nonconforming invoice is not an acceptance of any non-conforming or additional terms on such invoice.

3. Services: Deliverables.

3.1 Authorization of Services. Seller shall provide the Services pursuant to the terms of the Contract. Seller shall not perform any Services unless and until Prologis issues a PO or Contract with respect to such Services which incorporates these Terms. If the Services required under any PO or any other written agreement requires an SOW, such SOW must be in writing, and shall comprehensively define and describe, among other things, the Services to be performed by Seller, payment schedules, the fees associated with such Services, the nature of any Deliverable, acceptance criteria, time frames and milestone dates for the completion of the Services, project coordination and any other significant matters germane to the Services requested by Prologis.

3.2 Acceptance. Prologis shall be obligated to pay only for Services performed and Deliverable delivered and accepted per the terms of the Contract. The acceptance criteria and procedure shall be set forth in the applicable Contract.

3.3 Obligation to Provide the Services. Seller shall diligently and completely render all Services and deliver all Deliverables as described and defined in the Contract and any amendment or change orders hereto accepted by both Parties. All obligations of Prologis relating to the applicable time schedule for Deliverables hereunder are preconditioned on the due fulfillment of all contractual obligations hereunder by Seller. Seller shall promptly notify Prologis of any factor, occurrence, or event that may affect Seller's ability to meet the requirements of the Contract or that is likely to result in delay of delivery of the Deliverables.

4. Personnel.

4.1 Use of Personnel; Removal. The Seller shall cause all its employees, agents and subcontractors utilized by the Seller ("Personnel") to perform the Services in accordance with the terms and conditions of the applicable Contract. All such Services shall be performed by Personnel who are reasonably acceptable to Prologis. In the event that any Personnel performing the Services are found to be unacceptable to Prologis, Prologis shall have the right, without any liability or penalty of any kind owed to the Seller, to require the Seller to immediately remove said Personnel from performing such Services and promptly provide a qualified replacement. Notwithstanding the foregoing, Prologis acknowledges and agrees that Seller shall have the sole discretion to employ, promote, discipline, or discharge any Personnel.

4.2 Seller Responsibility. Any Personnel supplied or used by Seller shall be deemed to be employees or subcontractors of Seller and shall not be considered employees, agents, or subcontractors of Prologis for any purpose. Seller assumes full responsibility for the actions of all such Personnel while performing Services and producing and delivering the Deliverables under the Contract and for the payment of compensation, (including, if applicable, the payment and withholding of federal, state, provincial and/or local income taxes, and social security and other payroll taxes), workers' compensation, disability benefits and related liabilities and obligations therefor.

4.3 Drug & Alcohol Use. The Seller acknowledges that Prologis prohibits the use, possession, and/or distribution of alcohol and drugs by Personnel while on the premises of Prologis and/or while performing any Services for Prologis. This prohibition includes being under the influence of alcohol or drugs while on the premises of Prologis and/or while performing any Services for Prologis. The Seller will inform all Personnel that this policy is in full force and effect and will ensure that its Personnel strictly comply with said policy. The Seller warrants and represents that it complies with all Laws with respect to drug-free workplace initiatives and testing requirements.

4.4 Background Check. To the extent permitted by Law, and at its sole cost and expense, the Seller shall conduct criminal background checks for any and all employees used to perform the Services contemplated under an applicable Contract. Seller hereby certifies that, with respect to any and all Personnel used to perform any Services there is nothing revealed by such background checks of said Personnel that would create a reasonable doubt about the utilization of same for the Services in a safe manner and with proper regard for the security of Prologis and its employees, affiliates, subsidiaries, customers, and other third parties.

4.5 Security Training. Upon request by Prologis, all Personnel performing Services may be required to complete annual Prologis-provided privacy and security training.

4.6 Safety Requirements. Prologis may provide information to Seller, and its Personnel performing Services, regarding applicable Prologis safety requirements. Seller shall ensure that its Personnel performing Services comply with all such Prologis safety requirements while they are performing Services on Prologis' premises.

5. Delivery.

5.1 Delivery Terms. Seller shall deliver Products both in quantities and at times specified on the Contract. Unless otherwise stated in the Contract, Goods shall be delivered DDP (Incoterms 2010) Prologis's designated facility specified in the Contract, and if applicable, with export customs formalities completed by Seller, and title will transfer upon receipt of the Goods by Prologis at such facility. Prologis may change shipping schedules or direct temporary suspension of such scheduled shipments. Prologis may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price of Products. Premium shipping expenses and/or other expenses necessary to meet delivery schedules set forth in the Contract shall be Seller's sole responsibility.

5.2 Delivery Requirements. Seller shall provide packing slips for all shipments of Goods. Packing slips and other shipping documents and memos, such as bills of lading, shall show the PO number, part number, name of Seller, and item and reference numbers. For each international shipment, in addition to the packing list, Seller shall include a customs valuation invoice (pro forma or "Commercial Invoice," using the value set forth in the PO), with a master packing slip and shall furnish all other required export/import documents. Export and trade credits shall belong to Prologis. Seller shall furnish (a) all documents required to obtain export credits and customs drawbacks; (b) certificates of origin of the materials and Products provided and the value added in each country; (c) all NAFTA, AALA and any other FTA or trade preference related or required documents; (d) all required export licenses or authorizations; and (e) any other documents requested by Prologis or any of its customers. Seller warrants that the contents of such documents shall be true and accurate. Seller shall indemnify Prologis for any damages, including duties, interest and penalties, arising from a false or inaccurate statement.

5.3 Damage. Unless otherwise specified in the Contract, all Goods shall be properly packed, marked, loaded and shipped as required by the Contract and by the transporting carrier. If Prologis has not provided packing or shipping instructions, Seller will pack and ship Products in accordance with industry standards. Seller shall reimburse Prologis for all expenses, including damage to the Products, incurred due to improper packing, marking, or loading. Unless otherwise provided in the PO, any charges or costs related to the handling, packaging, storage or transportation of the Goods are the responsibility of the Seller and have been included in the price of the Products.

5.4 Risk of Loss. Risk of loss remains with Seller until the ordered Goods are received and accepted at the location stated in the Contract. Title to all Goods under an applicable Contract pass to Prologis when the Goods are received and accepted at the Prologis facility stated in the Purchase Order.

5.5 Inspection. All Goods delivered by Seller are subject to inspection and acceptance/rejection by Prologis (in the case of directly shipped Goods) within a reasonable time after receipt. If the Goods are defective or do not conform to the Order, in whole

or in part, Prologis may reject the Goods and, at Prologis' option, either (a) require Seller to replace the Goods at no additional cost or (b) return the Goods to Seller for full reimbursement of any amounts paid for the returned Products, plus transportation charges.

5.6 Time, Quantity and Quality are of the Essence.

(a) TIME, QUANTITY, AND QUALITY ARE OF THE ESSENCE AS TO ALL GOODS AND SERVICES. If Seller is late in delivery of any Goods or its provision of any Services, or if Seller is unable to deliver the full quantities of Goods required under the Contract by the applicable delivery dates, or if Seller cannot meet the quality requirements under the Contract, Seller shall be in default under the Contract. In addition to any other binding obligations on Seller under the Contract, if Seller cannot meet the delivery dates, quantities or quality requirements specified in the Contract, Seller will promptly notify Prologis and: (i) Prologis may, at its option: (A) terminate the Contract or all or any portion of the PO, as applicable, without liability to Seller; (B) require Seller to deliver the Goods using priority freight delivery with incremental freight charges at Seller's expense; and/or (C) perform the Services using additional labor or have an alternative supplier perform the required Services that were to have been performed by Seller, at Seller's expense; (ii) if the provisions in clause (i) of this Section 5.6(a), alone or together, are insufficient to meet Prologis's requirements or if Seller will be unable to comply with such provisions (as determined by Prologis in its sole discretion), Prologis may purchase substitute goods and procure alternative services and hold Seller accountable for the difference between the price of the Goods or Services and the price paid by Prologis for substitute goods or services, if higher, including amounts charged for shipping, insurance, handling, and any taxes or duties.

(b) The provisions of this Section 5.6 are in addition to Seller's other obligations under the Contract and Prologis's other rights and remedies provided at law, in equity, and in the Contract.

6. **Changes; Cancellation.**

6.1 Changes and Suspension. Prologis reserves the right at any time to change or suspend any and all work in progress under the Contract including changes in the design (including drawings and Specifications), processing, methods of packaging and shipping and the date or place of delivery of the Products covered by the Contract or to otherwise change the scope of the work covered by the Contract. Without the prior approval of Prologis, Seller shall not make any changes to any Contract, or the Products covered by the Contract.

6.2 Cancellation. Unless specified in the Contract and subject to Prologis's obligations in this Section 6.2, Prologis may at any time cancel all or any part of a PO. Upon any such cancellation, Seller will, to the extent and at the times specified by Prologis, stop all work pertaining to the cancelled portion of the PO, incur no further costs, and protect all property in which Prologis has or may acquire an interest. Prologis will not be responsible for any costs in connection with a cancelled PO except for payment of: (a) the portion of the Goods delivered and/or Services performed prior to notice of the cancellation, provided that such Goods and/or Services meet all of the Specifications and requirements of the Contract; (b) raw materials and components (if any) that were purchased by Seller in order to meet the requirements of the PO and that: (i) met all of the relevant Specifications under the Contract; (ii) were ordered no earlier than applicable lead times of the materials and components order to meet the delivery dates specified in the PO; and (C) could not be returned for a refund or credit or used for or sold to any of Seller's other customers.

7. **Intellectual Property.**

7.1 Background Intellectual Property. Each Party is, and shall remain, the sole and exclusive owner of, and retain all right, title and interest in and to, any Intellectual Property owned, acquired, or created prior to the Effective Date or developed in a strictly independent and separate manner from this Contract or the development or sale of the Products to Prologis ("Background IP"). Nothing in this Contract shall be construed as granting any rights in or license, express or implied, to the Background IP of the other Party except that Seller hereby grants to Prologis, and causes its Affiliates and personnel to grant to Prologis, an irrevocable, worldwide, nonexclusive, royalty free, fully paid-up license, with right to sublicense to Prologis's Affiliates, all Background IP necessary to use, distribute, display, modify, perform, repair, remanufacture, rebuild, offer to sell, sell, and import, make or have made the Products that are the subject of the Contract.

7.2 Foreground Intellectual Property. Intellectual Property and Intellectual Property Rights (other than Background Intellectual Property owned by Seller) which incorporates development services, designs, specifications, modifications, or requirements provided by Prologis or incorporates Prologis's Confidential Information ("Foreground IP") shall be the property of the Prologis.

8. **Representations and Warranties of Seller.**

8.1 General. In addition to any express warranties set forth in the Contract, any statutory warranties and any warranties implied by law, Seller, on behalf of itself and its sub-contractors and/or sub-suppliers, as applicable, expressly represents and warrants to Prologis and Prologis's respective customers, successors and assigns that the Goods, Services, and Deliverables provided, produced and delivered under the Contract (i) shall strictly conform with all Specifications, drawings, statements on containers or labels, descriptions and samples furnished to or by Prologis, and all industry standards, laws and regulations in force in countries where such Services are provided and Deliverables are being used; (ii) shall be free from defects in design, material and workmanship and shall meet or exceed the quality standards specified by Prologis; (iii) shall be free and clear of all liens, claims or other encumbrances, and that Seller is conveying good title to Prologis; (iv) shall be merchantable, of good material and workmanship, free from defects, and safe, fit and sufficient for the particular purposes intended by Prologis; and (v) shall be performed in a professional, competent, workmanlike manner in conformance with all policies, rules and schedules established by Prologis with respect thereto, and in compliance with all Laws, including all federal, state, and local laws, as well as all regulations, customary business, trade and industry practices and standards, other applicable standards, and labeling, transporting, licensing approval or certification requirements, in the United States or any other country where the Services will be performed and the Deliverables will be used. These warranties shall survive inspection, test, delivery, acceptance, use and payment by Prologis and shall inure to the benefit of Prologis, its successors, assigns, and the users of Prologis's Goods and Services.

8.2 Non-Infringement. Seller represents and warrants that there is no claim, litigation or proceeding pending or, to the knowledge of Seller, threatened with respect to the Product or any component thereof alleging infringement or misappropriation of any, copyright, trademark, trade secret, patent or other proprietary right of any person. Seller warrants that the Product does not and will not infringe or misappropriate any copyright, trademark, trade secret, patent or other proprietary right of any third party.

8.3 Malware. Seller warrants that its software, code and/or firmware that is delivered to Prologis shall be free of viruses, malicious code, time bombs, Trojan horses, back doors, drop dead devices, worms, or other code of any kind that may disable, erase, display any unauthorized message on, permit unauthorized access to or otherwise impair Prologis' network, software, hardware, data or systems.

8.4 Goods Warranties.

- (a) Seller hereby assigns to Prologis all manufacturer warranties furnished with the Goods. If any defects or non-conformity appear within the warranty period from the later of Prologis's receipt of the invoice or date of delivery and/or installation of such Goods, Seller will promptly repair, replace or otherwise correct such materials affected by defects or non-conformity at no cost to Prologis. Seller will pay or reimburse Prologis for all shipping and other reasonable costs incidental to the such correction.
- (b) Seller will furnish appropriate Material Safety Data Sheets where required by Laws including applicable U.S. Department of Labor regulations for each Good.

8.5 Compliance Warranties. Seller represents and warrants to Prologis that:

- (a) it is not debarred, suspended, excluded, or disqualified from doing business with the United States Government, or listed as the Excluded Parties List System maintained by the General Services Administration of the United States Government;
- (b) (i) it is not under investigation by any Governmental Authority for, nor has it been charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities, any crimes which in the United States would be predicate crimes to money laundering, or any violation of any Anti-Money Laundering Laws,(ii) has not been assessed civil or criminal penalties under any Anti-Money Laundering Laws, and (iii) it has not had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws;
- (c) it in compliance with all applicable domestic or foreign Anti-Corruption Laws, including those prohibiting the bribery of Government Officials, and will remain in compliance with all applicable Laws; that it will not authorize, offer or make payments directly or indirectly to any Government Official; and that no part of the payments received by it (whether compensation or otherwise) from Prologis will be used for any purpose that could constitute a violation of any applicable Law;
- (d) neither it nor any of its Personnel is the subject of any sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the United Nations Security Council

(UNSC), the European Union (EU), Her Majesty's Treasury (HMT), or other relevant sanctions authority (collectively, "Sanctions"), nor is Seller, or any of its Personnel located, organized or resident in a country or territory that is the subject of Sanctions;

- (e) neither it nor any of its Personnel has violated any Sanctions;
- (f) neither it nor any of its Personnel will use any funds received by or on behalf of Prologis to fund or engage in any activities with any Person or in any country or territory, that, at the time of such funding or activity, is the subject of Sanctions, or in any other manner that will result in a violation by any Person of any Sanctions.
- (g) EEO Compliance. This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

9. **Compliance with Laws and Applicable Policies.**

9.1 Seller shall comply with all applicable Laws in the supply of Goods and performance of Services including Laws that regulate the sale, manufacture, labeling, transportation, licensing, approval, permits or certification of the Products, including: (a) all applicable export control and sanctions Laws of the United States and any other relevant country; and (b) those relating to environmental matters, data protection and privacy, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health and safety and motor vehicle safety.

9.2 Seller agrees to comply with all Prologis policies, standards, rules, and procedures, as they may be amended from time to time, that are disclosed to Seller in writing and are applicable to the performance of Seller's obligations under the Contract.

9.3 **Prologis Company Code of Conduct.** Prologis expects its suppliers and their representatives to conduct all business activities in accordance with the following code of conduct. The following expectations are in addition to any requirements that may be detailed in the Contract.

- o Business Practices
 - Maintain professional standards throughout all business dealings.
 - Consult with Prologis legal counsel on any matter relating to actual or potential noncompliance with laws and regulations.
 - Maintain integrity and confidentiality of data, recordkeeping and intellectual property.
 - Utilize information technology provided by Prologis to conduct only Prologis-related business.
 - Avoid insider trading, defined as the purchase or sale of securities while in the possession of material, non-public information.
 - Engage in ethical behavior related to and limiting business courtesies, gifts, kickbacks or other incentives to obtain and/or retain Prologis business.
 - Comply with all anti-corruption, antitrust and fair competition laws.
- o Employment Practices
 - Conduct employment practices in compliance with regulations.
 - Prohibit the use of involuntary and child labor.
 - Comply with all local minimum wage laws.
 - Comply with all local labor laws and standards regarding working hours, overtime and public holidays.
 - Provide a work environment free of discrimination and harassment based on gender, race, color, national origin, age, religion, marital status, disability, sexual orientation or veteran status.
 - Promote a safe and healthy work environment in accordance with all applicable regulations.
 - Prohibit inhumane treatment and/or disciplinary action.
 - Treat all employees with dignity and respect.
- o Environmental Practices
 - Comply with the requirements of applicable federal, state and local environmental laws and regulations.
 - Promote environmental benefits through reduced energy and water consumption and implementation of waste minimization programs.

10. **Confidentiality.**

10.1 **Prior Non-Disclosure Agreements.** Notwithstanding anything to the contrary contained herein, in the event of any conflict between any provision of these Terms and any prior non-disclosure or confidentiality agreement(s) executed between the Parties with respect to the disclosure, receipt and/or use of confidential or proprietary information, as applicable, the provisions of these Terms shall prevail.

10.2 **Restrictions on Disclosure and Use of Confidential Information.** Each Party shall, and shall cause its Representatives to, hold the Confidential Information of the other Party in secrecy and confidence (in a manner consistent with the protection of its own confidential information of a similar nature, and in any event no less than a reasonable standard of care) in accordance with the provisions of these Terms. Each Party shall not, and shall ensure that its Representatives do not, use the Confidential Information of the other Party for any purpose other than performance of such Party's obligations under the Contract. Each Party, in its capacity as the Receiving Party, shall not, and shall cause its Representatives not to, disclose, divulge, use, exploit (whether for its own benefit or the benefit of anyone other than the other Party), provide or otherwise make available any Confidential Information of the other Party to any Person other than in accordance with these Terms and on a need-to-know basis, provided such Persons are bound in writing by confidentiality obligations that are applicable to the Confidential Information and are substantially as restrictive as the provisions of this Section 10 (or, in the case of accountants and attorneys, are bound by professional obligations of confidentiality), in order to permit those Persons to assist the Receiving Party in connection with performance of its obligations under the Contract. The Receiving Party shall notify the Disclosing Party in writing of any misuse, misappropriation or unauthorized disclosure of Confidential Information of the Disclosing Party promptly following knowledge or discovery (in each case after due inquiry) thereof. Upon the Disclosing Party's written request, the Receiving Party shall, at the Disclosing Party's option, either (a) deliver to the Disclosing Party all documents, notes, summaries, analysis, compilations and other recordings containing or reflecting the Disclosing Party's Confidential Information and all copies thereof or (b) destroy all such material, and in either case (a) or (b), an officer of the Receiving Party shall certify in writing to the Disclosing Party that the same has been done; provided, that copies of such Confidential Information may be retained by the Receiving Party if automatically stored pursuant to the Receiving Party's archival or record retention policies, provided such Confidential Information is not readily accessible and the Receiving Party complies with the confidentiality obligations and use restrictions in these Terms for so long as such Confidential Information is so retained.

10.3 **Disclosures Required by Law.** Notwithstanding the foregoing, it shall not be a breach of these Terms for the Receiving Party to disclose Confidential Information of the Disclosing Party if required to do so under law or in a judicial, arbitral, or governmental proceeding or investigation, provided, that (x) the Disclosing Party has been given reasonable prior notice to allow it to take actions to protect its interest and the Receiving Party shall cooperate with all reasonable requests of the Disclosing Party in connection thereof, including any protective orders or other safeguards sought by the Disclosing Party and (y) the Receiving Party only discloses that portion of the Confidential Information (with a full copy to the Disclosing Party) required to be disclosed and shall preserve the confidentiality of all other Confidential Information of the Disclosing Party.

10.4 **Ownership; No License Rights Granted; No Warranty.** All Confidential Information shall remain the exclusive property of the Disclosing Party and nothing in these Terms, or any course of conduct between the Parties, shall be deemed to grant the Receiving Party any license, right, title, or interest in or to the Confidential Information (unless explicitly set forth in the Contract or otherwise agreed in writing by the Parties). The Receiving Party acquires no intellectual property license or rights under the Contract except the limited right to review and use such Confidential Information to perform its obligations under the Contract. All Confidential Information provided under the Contract is provided "AS IS" without any warranty, express, implied or otherwise, except that the Disclosing Party warrants that it has the right to disclose the Confidential Information to the Receiving Party.

10.5 **Period of Confidentiality.** Each Party's confidentiality obligations under this Section 10 will survive the expiration or earlier termination of the Contract and continue for a period of two (2) years thereafter. Following the expiration or earlier termination of the Contract, and at any time during a Contract, the Disclosing Party may request that the Receiving Party return or destroy all Confidential Information disclosed and within thirty (30) days after such request, the Receiving Party shall return or certify to the destruction of the Disclosing Party's Confidential Information, as applicable.

10.6 **Data Security.** Seller shall: (i) establish, implement and maintain a data privacy and security program which includes reasonable and appropriate physical, technical, organizational and administrative measures to protect against the destruction, loss, alteration and unauthorized access and use of Prologis's Confidential Information in the possession or control of Seller (or its subcontractors); and (ii) comply with Prologis's information and data security policies as disclosed to Seller from time to time including providing Prologis with if requested: (1) copies of an annual third-party audit of such security program; and/or (2)

complete a Prologis-provided security questionnaire.

10.7 **Non-Disparagement.** During the term of the Contract and thereafter, Seller shall not make or publish any disparaging or derogatory statements with respect to Prologis, or its integrity, business or professional standing or reputation, or that of any of its Representatives.

11. **Remedies.**

11.1 The rights and remedies reserved to Prologis in the Contract shall be cumulative with, and additional to, all other or further remedies provided in law or equity.

11.2 **Rejection of Non-Conforming Goods.** Prologis shall have the right, in addition to exercising all other rights Prologis may have under the Uniform Commercial Code and any other applicable Law, to reject Goods as non-conforming or defective, and at Prologis's option: (a) retain the non-conforming or defective Goods in whole or in part with an appropriate adjustment in the price for the Goods; (b) require Seller to reperform, repair or replace the non-conforming or defective Goods within twenty-four (24) hours of Prologis's notice thereof, at Seller's sole expense, including all shipping, transportation, and installation costs; and/or (c) correct or replace the non-conforming or defective Goods with similar items and recover all costs relating thereto from Seller.

11.3 **Rejection of Non-Conforming Services or Deliverables.** In the event of any deficiencies in the Services or non-conformity of the Deliverables to the Specifications, Prologis has the right to take remedial steps and shall be entitled to, at the sole option of Prologis, (a) Seller's re-performance of the deficient portion of the Services and re-delivery of the Deliverables, or (b) price reduction or refund of the deficient portion of the Services and non-conforming portion of the Deliverables, provided that such steps shall be in addition to, and not in exclusion of, any other rights or remedies of Prologis hereunder.

12. **Indemnification.**

12.1 **General.** Seller shall indemnify, defend, and hold harmless Prologis, its Affiliates and its and their respective directors, officers, employees, contractors, representatives, invitees, agents and customers (collectively, "**Indemnitees**") from and against all liability, demands, claims, losses, costs, actions, judgments, fines, penalties, damages and expenses, including expert and attorneys' fees, (collectively, "**Liabilities**") incurred by Prologis or its Affiliates arising out of any Claim against any Indemnitee that arises from or relates to: (a) Seller's noncompliance or breach of any representation, warranty or obligation under the Contract (including these Terms; (b) any product liability claim, product recall, corrective action, or other voluntary or involuntary action or effort in which Prologis participates with respect to the Products; (c) any infringement or misappropriation of any Intellectual Property Right relating to any Product or any portion thereof; or (d) any personal injury claim, including death or injury, or damage to property, caused by Seller, its employees, agents, subcontractors, or in any way attributable to the performance of Seller, its employees, agents, or invitees. Seller waives the application of the doctrine of comparative negligence and other doctrines that may otherwise allocate the liability covered by Seller's indemnity. This indemnification obligation shall apply regardless of whether the Claim arises in tort, negligence, contract, warranty, strict liability or otherwise.

12.2 **Indemnification Procedure.** Prologis shall give Seller prompt written notice of any Claim for which indemnification is sought under this **Section 12**. Failure to give notice will not diminish Seller's obligation under this **Section 12**. When provided notice of any actual or potential Liabilities, Seller, at Prologis's option and at Seller's expense, will undertake defense of such actual or potential Liabilities. Seller may select legal counsel to represent the Indemnitees (said counsel to be reasonably satisfactory to Prologis) and otherwise control the defense of such Claim; provided, however, that Seller shall first obtain authorization from Prologis before settlement is made of the actual or potential Liabilities if the terms of such settlement (a) require any action or inaction by Prologis or any Affiliate thereof or (b) could materially adversely affect Prologis, including any terms which admit the existence of a defect in Products or a failure of Prologis to fully and faithfully perform its obligations. In the alternative, Prologis may elect to undertake defense of such Liabilities to the extent asserted against Prologis, and Seller shall reimburse Prologis on monthly basis for all expenses, attorneys' fees, and other costs incurred by Prologis.

12.3 **Infringement Claims.** If a Good or Service becomes, or in Seller's reasonable opinion is likely to become, the subject of a claim of infringement or misappropriation of any Intellectual Property Rights, Seller shall, at its sole expense, either (a) promptly procure for Prologis the right to continue to use the Good or Service, or (b) replace or modify the Good or Service to make it non-infringing, provided that the modified Good or Service meets the Specifications and all other requirements under the Contract.

13. **Insurance.**

13.1 **General.** Unless otherwise specified in a separate written agreement, Seller shall maintain insurance in amounts herein naming Prologis as an additional insured, and covering general liability, public liability, product liability, product recall, completed operations, contractor's liability, automobile liability insurance, worker's compensation, and employer's liability insurance as will adequately protect Prologis against damages, liabilities, claims, losses and expenses (including attorneys' fees) with respect thereto. Seller agrees to submit certificates of insurance evidencing its insurance coverage, when and as requested by Prologis.

13.2 **Requirements.** During the term of the Contract, Seller shall provide, pay for, and maintain in full force and effect the insurance outlined herein covering claims arising out of or in connection with the Goods or performance of Service performed by or on behalf of Seller. Seller shall contractually cause all sub-vendors or anyone for whose acts they are liable to purchase and maintain insurance in coverage types, limits and endorsements as shown here and provide proof of such coverage upon request in a form acceptable to Prologis. Such insurance shall be issued by companies licensed to do business in the state where the work is performed and having a minimum Best Key rating of no less than A-VIII and shall be primary and in excess of any insurance carried by Prologis, and non-contributory with Prologis' policies with regards to Seller's indemnity obligations under this Agreement: **Commercial General Liability Insurance.** Commercial General Liability insurance coverage, including contractual liability, with minimum limits of One Million Dollars (\$1,000,000) on a per occurrence basis. Prologis, L.P. and its Affiliates shall be named as an additional insured; **Worker's Compensation Insurance.** Worker's Compensation Insurance in statutory amounts, or equivalent if not required by the state where services are performed, and Employer's Liability coverage with limits of liability of not less than \$1,000,000 covering all employees of Seller employed in, on or about Prologis' property. A waiver of subrogation in favor of Prologis, L.P. and its Affiliates shall be provided, to the extent allowed by law; **Errors and Omissions Insurance.** Errors and Omissions insurance covering the Services to be provided, with minimum limits of One Million Dollars (\$1,000,000) on a per occurrence basis, with an aggregate Two Million Dollar (\$2,000,000) limit. The insurance shall be endorsed to include coverage for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information technology services of technology products and violations of software copyright; **Employment Practices Liability Insurance.** When worked is performed on Prologis' premises, Employment Practices Liability Insurance with a minimum limit of \$1,000,000 and having a third-party endorsement. Prologis, L.P. and its Affiliates shall be named additional insured on this policy for acts of the Seller; **Cyber Liability Insurance.** Cyber Liability Insurance, when work performed requires or allows Seller to be connected to Prologis' networks or data is stored on Seller's or sub-vendor networks. A minimum limit of \$1,000,000 shall be provided. and Prologis, L.P. and its Affiliates shall be named additional insured on this policy for acts of the Seller or anyone for whom Seller is responsible. The insurance shall include coverage for loss, disclosure and theft of data in any form; media and content rights infringement and liability, including but not limited to, software copyright infringement; network security failure, including but not limited to, denial of service attacks and transmission of malicious code. Coverage shall include data breach regulatory fines and penalties, the cost of notifying individuals of a security or data breach, the cost of credit monitoring services and any other causally-related crisis management expenses for up to one (1) year. Coverage shall contain severability for the insured organization for any intentional act exclusions.

14. **Term and Termination.**

14.1 **Duration.** Unless otherwise specified in a separate written agreement, the Contract shall be effective as of the Effective Date and shall remain in effect until completion of the supply of Goods or performance of Services as specified in the Contract unless sooner terminated under this **Section 14** or by mutual written agreement of the Parties.

14.2 **Termination.**

- (a) For Convenience. Unless otherwise provided in a Contract, Prologis shall have the right, with or without cause, to terminate any Contract including any SOW under a Master Purchase Agreement by providing ten (10) days prior written notice to Seller.
- (b) For Default. Prologis may terminate immediately all or any part of each Contract, without any liability to the Seller, in the event of any default by the Seller by providing written notice thereof. Seller is in default if: (i) Seller fails to perform or breaches any obligations under the Contract and has not cured such breach within fifteen (15) days of written notice of such breach from the other party; and (ii) Seller repudiates, or threatens to breach any of the terms of the Contract.
- (c) For Non-payment by Prologis. If Prologis fails to pay Seller when due undisputed charges for more than two

invoice cycles, and fails to make such payment within forty-five (45) days after the date Prologis receives notice of non-payment from Seller, Seller may terminate the Contract as of a date specified in a written notice of termination referencing this Section 14.2 and expressly stating Seller's intent to terminate the Contract. Seller may not suspend performance of the Services during the term of this Contract for any reason.

- (d) For Insolvency. Either Party may be terminated the Contract automatically, without notice, (i) upon the institution by or against Prologis or Seller of any insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of debts, (ii) upon Prologis or Seller's making an assignment for the benefit of creditors, or (iii) upon Prologis or Seller's dissolution.

14.3 Termination Claims; Obligations Following Termination.

(a) Upon receipt of notice of termination pursuant to Section 14.2, Seller, unless otherwise directed in writing by Prologis, shall (i) terminate immediately all work under the Contract and/or related SOW; and (ii) deliver to Prologis any remaining property of Prologis in Seller's possession, including reports, data, work products, and Confidential Information (alternatively, as requested by Prologis, Seller will destroy such property), and certify that all such Prologis's property has been removed from Seller's systems, premises and control and either returned or destroyed. All materials in electronic form shall be delivered to Prologis on such media and in such file format as Prologis may direct.

(b) Upon termination for convenience pursuant to Section 14.2(a) or termination by Seller pursuant to Section 14.2, Prologis shall be liable only for the portion of the supply of Goods or Services performed by Seller and Deliverables delivered to Prologis prior to the termination date of the Contract, provided such supply of Goods or performance Services and Deliverables conform to all timing and other Specifications.

(c) Except as expressly set forth in this Section 14, Prologis shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for any other alleged losses or costs, whether denominated as loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, ancillary exit charges (including costs of riggers, warehousing, premium manufacturing costs, loading of trucks or other standard business procedures related to transitioning production to an alternative supplier), capital costs or expenditures, internal labor costs or charges, or general and administrative burden charges resulting from termination of the Contract or otherwise. Notwithstanding anything to the contrary, Prologis's obligation to Seller upon termination shall not exceed the obligation Prologis would have had to Seller in the absence of termination.

15. **Limitation of Liability.** IN NO EVENT SHALL PROLOGIS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, PUNITIVE OR LOST PROFIT, LOST REVENUES DAMAGES OF ANY KIND OR NATURE ARISING OUT OF THE CONTRACT, THE GOODS AND DELIVERABLES DELIVERED HEREUNDER OR THE SERVICES RENDERED HEREUNDER REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE) AND REGARDLESS OF HOW CHARACTERIZED, EVEN IF PROLOGIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16. **Force Majeure.** Neither party shall be liable for any loss, damage or delay arising out of its failure (or that of its subcontractors) to perform its obligations and responsibilities under the Contract due to causes beyond its reasonable control, including acts of God, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, acts of terrorism, delays in transportation, or transportation embargoes. In the event of such delay, performance date(s) will be extended as reasonably necessary to compensate for the delay; provided, that such event causes a delay of greater than ten (10) business days, Prologis shall have the right to terminate this Agreement upon written notice thereof to Seller.

17. **Price Protection.** Unless otherwise specified in a separate written agreement and notwithstanding anything contained herein to the contrary, Seller hereby represents and warrants to Prologis that the price for each Product hereunder shall not exceed the lowest prices for such Product offered by Seller to any of its other customer on substantially equivalent terms. The price shall include the totality of (a) the price for such Products and (b) all other economic terms including credits, rebates, refunds, purchase volumes, purchase commitments, discounts and allowances and whether or not such Product is being sold bundled with any other Products.

18. **Governing Law; Dispute Resolution.**

18.1 The Contract shall be governed by and construed in accordance with the laws of the State of Delaware, without regard

to its conflicts of law provisions. Any action or proceeding arising out of or relating to this Agreement shall be brought in the federal or state courts sitting in the jurisdiction of New Castle County, Delaware, and each of the parties hereto irrevocably submits to the exclusive jurisdiction of each such court in any such action or proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the action or proceeding shall be heard and determined only in any such court and agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court.

18.2 THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY ACTION OR PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

19. **Miscellaneous.**

19.1 **No Waiver.** A waiver by Prologis of any right or remedy shall not affect any rights or remedies subsequently arising under the same or similar clauses. The failure of the Prologis to insist upon the performance of any term or condition of the Contract, or to exercise any right hereunder shall not be construed as a waiver of the future performance of any such term or condition or the exercise in the future of any such right.

19.2 **Audit Rights.** Prologis reserves the right to conduct an audit of Seller's facilities, controls, records, disaster recovery and business continuity planning and personnel, to the extent required or deemed advisable by Prologis or its customers, or its or their designated third-party auditors, to enable Prologis's full compliance with the terms and conditions of its agreements with its customers. Seller shall cooperate fully with any audits of Seller. Prologis agrees to conduct any audit during regular business hours unless otherwise agreed to between Prologis and Seller.

19.3 **Non-Solicitation.** Seller hereby acknowledges and recognizes the highly competitive nature of the respective businesses of Prologis and that Seller will have access to proprietary and confidential information regarding Prologis's business. Accordingly, unless otherwise specified in a separate written agreement, for the consideration stated herein, Seller hereby agrees that, during the term of the Contract and continuing thereafter for a period of one (1) year, Seller will not directly or indirectly (whether as an owner, principal, lender, stockholder, partner, member, employer, employee, consultant, contractor, subcontractor, representative, distributor, officer, director or otherwise) attempt to or solicit to employ or engage, or employ or engage any employee or independent contractor of Prologis, or induce or otherwise advise any employee or independent contractor of Prologis to leave the employ of or to cease being engaged by Prologis. Notwithstanding the foregoing, this provision shall not apply to individuals who respond to general advertisements placed by a party that were not specifically targeted to such individuals.

19.4 **Assignment.** Each Contract is issued to Seller in reliance upon Seller's personal performance of the duties imposed. Seller agrees not to, in whole or in part, assign the Contract or delegate the performance of its duties without the written consent of Prologis, and any attempt to do so shall be void *ab initio*. Any consent by Prologis to an assignment shall not be deemed to waive Prologis's right to recoupment from Seller and/or its assigns for any claim arising out of the Contract. Assignment shall not relieve Seller from its obligations of confidentiality under Section 10 hereof. Prologis may, in its sole discretion, transfer or assign the Contract, in whole or in part, to any third party upon notice to Seller.

19.5 **Subcontracting.** Seller shall not subcontract any of its obligations under the Contract without the prior written consent of Prologis. Seller shall remain responsible and liable for the obligations, services, and functions performed by its subcontractors. Any such consent of Prologis will not release Seller from, or limit, any of Seller's obligations under the Contract. Seller warrants and guarantees that any such subcontractor's performance will satisfy all requirements and obligations applicable to Seller under the Contract.

19.6 **Independent Contractor.** Seller is an independent contractor, and nothing in this Contract shall be construed to create a partnership, agency, joint venture, pooling, franchise, employer-employee or any other legal relationship or association between the parties. Neither party shall be responsible for the acts or omissions or the compensation, payroll-related taxes, workers' compensation, accident or health insurance or other benefits of Personnel of the other party. Neither party has the power or authority to act for, represent, or bind the other (or its affiliates) in any manner.

19.7 **Severability.** If any term(s) of the Contract is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term(s) shall be deemed reformed or deleted, as the case may be, but only to the extent necessary

to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of the Contract shall remain in full force and effect.

19.8 **Notices.** All notices, claims and other communications to Prologis required or permitted under the Contract shall be made in writing and sent by certified or registered mail, return receipt requested and proper postage prepaid to the following address (or such other address as is provided to Seller by Prologis) and shall be effective only upon receipt by Prologis in the form set forth in this Section 19.8:

If to Prologis:

Prologis
1800 Wazee Street, Suite 500
Denver, Colorado 80202
Attention: General Counsel & Chief Legal Officer
Email: legalnotice@prologis.com

Seller's failure to provide any notice, claim or other communication to Prologis in the manner and within the time periods specified in the Contract shall constitute a waiver by Seller of any and all rights and remedies that otherwise would have been available to Seller upon making such notice, claim or other communication.

19.9 **Claim from Seller.** In addition to any other restrictions contained in the Contract, any action by Seller under the Contract must be commenced within one year after the breach or other event giving rise to Seller's claim occurs, regardless of Seller's lack of knowledge of the breach or other event giving rise to such claim.

19.10 **Electronic Communications and Electronic Signatures.** Seller shall comply with any method of electronic communication specified by Prologis, including requirements for electronic funds transfer, PO transmission, electronic signature, and communication.

19.11 **No Third-Party Beneficiaries.** Unless otherwise expressly provided for herein, no provisions of the Contract are intended or shall be construed to confer upon or give to any Person other than Seller, Prologis any rights, remedies or other benefits under or by reason thereof; provided, that the Indemnitees shall be third party beneficiaries of Section 12 with rights of enforcement hereunder.

19.12 **Survival.** The obligations, representations, warranties, and covenants of Seller under these Terms and each Contract that by their nature are intended or reasonably expected to survive the expiration or termination of these Terms and each Contract, including (a) the obligations, representations, warranties, and covenants of Seller with respect to Products delivered to or ordered by Seller prior to such expiration and termination and (b) the obligations, representations, warranties, and covenants of Seller set forth in Sections 3 (Services; Deliverables), 6 (Intellectual Property), 8 (Warranty), 9 (Compliance with Laws), 10 (Confidentiality), 11 (Remedies) 12 (Indemnification), 13 (Insurance), 14 (Insurance Term and Termination), 15 (Limitation of Liability), 18, (Governing Law; Dispute Resolution) and this Section 19.12, shall survive the expiration or termination of the Terms and each Contract created hereunder.

19.13 **Entire Agreement.** The Contract constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior representations, understandings, or agreements by the Parties, whether written or oral, with respect to the subject matter thereof. Except as authorized in Section 6, no subsequent terms, conditions, understandings, or agreements purporting to modify the Contract will be binding unless in writing and signed by both Parties.

19.14 **Advertising and Publicity.** Seller shall not discuss, disclose, advertise, market or otherwise make known to third parties (including any clients, customers, or suppliers of Prologis) any information relating to any projects or business of Prologis or any Prologis Products produced and delivered under any Contract without the Prologis's prior written consent. Seller shall not use or publicly display (in advertisements, press releases or otherwise) Prologis's name, trademarks, service marks or logos without Prologis's prior written consent.

20. **Definitions.** All capitalized terms not defined herein shall have the meanings set forth in other documents comprising the Contract.

20.1 "Affiliate" means with respect to a Person, any other Person controlling, controlled by, or under common control with, such Person. For purposes of the Contract, "control" means possessing, directly or indirectly, the power to direct or cause the direction of the management, policies or operations of a Person, whether through ownership of voting securities, by contract or otherwise.

20.2 "Anti-Corruption Laws" means all Laws of any jurisdiction applicable to Seller, any of its subsidiaries or any of their respective Representatives relating to bribery or corruption, including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act.

20.3 "Anti-Money Laundering Laws" means the anti-money laundering Laws of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any Governmental Authority.

20.4 "Claim" means any demand, or any civil, criminal, administrative or investigative claim, action or proceeding (including arbitration) asserted, commenced or threatened against a Person by an unaffiliated third party. For purposes of this definition, an employee of either Party is considered an unaffiliated third party.

20.5 "Confidential Information" of a Party (the "Disclosing Party") means any information or items, or any part thereof, that is disclosed by or on behalf of such Party to the other Party (the "Receiving Party") or to any of the Receiving Party's Representatives, that (a) is marked as confidential (or as a trade secret, proprietary, private or other similar designation), (b) is identified as confidential when it is disclosed, or (c) should reasonably have been understood by the receiving Party to be confidential, including (in each case of clause (a), (b), and (c)) marketing data, financial and pricing information, business plans and opportunities, computer programs, source code, object code, technologies, products, know-how, product specifications, designs, prototypes, test data, customer lists and information, current and future marketing plans, current and future research and development specifications, and related documentation, and all materials, processes, demonstrations, copies, reproductions, analyses, summaries or combinations derived from, based on or using any of such information or items. Notwithstanding the foregoing, "Confidential Information" of the Disclosing Party shall not include information that: (i) is or becomes generally known to the public without any act or omission on the part of the Receiving Party or its Representatives; (ii) is in the Receiving Party's lawful possession at the time of disclosure by the Disclosing Party, free of restrictions on its disclosure and use, and was not acquired directly or indirectly from Disclosing Party; (iii) is or becomes known to the Receiving Party through disclosure by an unaffiliated third party (except where such third party is known by the Receiving Party to be disclosing such information in breach of obligations of confidence); or (iv) is independently developed by or for the Receiving Party by Persons who have had no access to or been informed of the existence or substance of such information; provided, that specific disclosures shall not be deemed to be within the foregoing limitations merely because they are embraced by general information in the public domain or in the Receiving Party's possession, and combinations of features disclosed by the Disclosing Party shall not be deemed to be within the foregoing exceptions merely because individual features of such combinations are in the public domain or in Receiving Party's possession, and which do not show the combination itself.

20.6 "Deliverables" means any work product required to be delivered by Seller to Prologis under the Contract.

20.7 "Effective Date" means the earliest effective date of any written agreement signed by both Parties, or in the absence of a written agreement, the date that Prologis issues a PO to which these Terms apply.

20.8 "Goods" means all products identified in a written agreement or SOW between the Parties or a PO and shall include (but is not limited to) (a) goods made by or on behalf of Seller and sold by Seller to Prologis, directly or indirectly including through resellers, distributors, value-added distributors and subassembly manufacturers and (b) prototype and development parts, pre-production versions of products (including software). To the extent that Goods are or include software, references to "sale" or words of similar meaning in this definition shall be deemed to refer to a "license" of such Goods consistent with the terms in the Contract.

20.9 "Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any supra-national, governmental, federal, state, provincial, local governmental or municipal entity or authority and any self-regulatory organization (including, in each case, any branch, department or official thereof).

20.10 "Intellectual Property" means all patents, patent applications, patentable subject matter, copyrights, copyrightable subject matter, work of authorship, derivative works, trademark, trade name, trade dress, trade secrets, know-how, and any other subject matter, material, or information that is considered by Prologis to be proprietary or confidential and/or that otherwise

qualifies for protection under any Law providing or creating Intellectual Property Rights, including the Uniform Trade Secrets Act.

20.11 "Intellectual Property Rights" means any intellectual property rights or similar proprietary rights in any jurisdiction, whether registered or unregistered, including such rights in and to: (a) trademarks and pending trademark applications, trade dress, service marks, certification marks, logos, domain names, uniform resource locators, trade names and fictional business names, together with all translations, adaptations, derivations and combinations and like intellectual property rights, together with all goodwill associated with the foregoing, (b) issued patents and pending patent applications, and any and all divisions, continuations, continuations-in-part, reissues, renewals, provisionals, continuing patent applications, reexaminations, and extensions thereof, any counterparts claiming priority therefrom, utility models, patents of importation/confirmation, certificates of invention, certificates of registration and like rights, inventions, invention disclosures, discoveries and improvements, whether or not patentable, (c) works of authorship, all copyrightable works (including software) and all copyrights including all applications, registrations and renewals thereof, and all rights corresponding thereto, (d) trade secrets, proprietary business, technical and know-how information, non-public information, and confidential information and rights to limit the use or disclosure thereof by any Person, (e) mask works, and (f) moral rights.

20.12 "Law" means any and all (a) federal, territorial, state, local and foreign laws, treaties, conventions, directives, regulations and ordinances, (b) codes, standards, rules, requirements, directives, orders and criteria issued under any federal, territorial, state, local or foreign laws, ordinances or regulations, (c) rules of a self-regulatory organization (including the rules of any national securities exchange or foreign equivalent) and (d) judgments, orders, writs, directives, authorizations, rulings, decisions, injunctions, decrees, assessments, settlement agreements, or awards of any Governmental Authority.

20.13 "Open Source Code" means software that requires as a condition of its use, modification or distribution, that it be disclosed or distributed in source code form or made available at no charge, including, without limitation, software licensed under the GNU General Public License (GPL) or the GNU Lesser/Library GPL.

20.14 "Person" means a natural person or any partnership (whether general or limited), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity or any other entity, in each case, whether domestic or foreign.

20.15 "Products" means Goods, Services, or Deliverables, or collectively for all Goods, Services, or Deliverables, as the context requires.

20.16 "Representatives," with respect to any Person, means such Person's Affiliates and such Person's and its Affiliates' respective directors, officers, members, managers, employees, contractors, subcontractors, agents, consultants, advisors or other representatives.

20.17 "Services" means (a) functions described in a written agreement or SOW between the Parties or a PO as functions for which Seller is responsible; (b) any functions related to the foregoing that are not specifically described in a written agreement or in a PO but are required for the provision of Services and including but not limited to installation services, implementation services, maintenance services, professional services, purchase/ordering of hosting services (including Prologis's access to and use of the Goods on a hosted basis), and any other services that Seller provides hereunder.

20.18 "Specifications" means the most current version of all applicable specifications and requirements either provided by Prologis, including other documents or requirements specifically incorporated or referenced in these Terms, PO, bills of materials, statements of work, project schedules, and drawings.