

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Document is subject to Public Disclosure

This Settlement Agreement and General Release (“Agreement”) is entered by and between the City of Oakland, a California municipal corporation (“City”), on the one hand, and Prologis CCIG Oakland Global, LLC (“Tenant”) on the other. City is also referred to herein as “Landlord”. Landlord and Tenant are sometimes individually referred to herein as “Party”, collectively as the “Parties”.

RECITALS

This Agreement is made with reference to the following facts:

- A. The Redevelopment Agency of the City of Oakland (“Redevelopment Agency”) and Tenant entered into that certain Billboard Franchise and Lease Agreement, dated as of October 23, 2012, for a portion of the former Oakland Army Base defined therein as the “Premises” (the “Lease”).
- B. On or about October 23, 2012, Tenant and Foster Interstate Media, Inc (“Foster”), entered into that certain Billboard Sublease Agreement (the “Sublease”).
- C. On or about May 14, 2020, Foster assigned all of its rights and interest under the Sublease to Outfront Foster Interstate Oakland LLC, a Delaware limited liability company (the “Subtenant”).
- D. The Lease and Sublease are incorporated herein by reference.
- E. The Oakland Redevelopment Successor Agency (“ORSA”) became the successor-in-interest to the Redevelopment Agency and, subsequently, pursuant to ORSA Resolution No. 2013-020, approval of the Oakland Oversight Board, Department of Finance, and California State Lands Commission, on August 30, 2013 by quitclaim deed recorded as Document No. 2013-295093, ORSA transferred Parcel E to the City along with all of its rights and obligations relating to the former Oakland Army Base including the Lease and the Premises.
- F. The Parties disagree on the methodology for calculating Percentage Rent due to the City under the Lease and Sublease (the “Percentage Rent Dispute”).
- G. The Parties desire to settle and compromise the Percentage Rent Dispute between the Parties on a mutually acceptable basis, and release any and all other claims, the specific terms and conditions of which settlement are embodied herein. This Agreement is not an admission of liability by either Party.
- H. Pursuant to Resolution ____, the City Council approved and authorized the City Administrator to execute this Agreement..

- I. To further effectuate this Agreement, the City Council, adopted Ordinance _____ (the “Ordinance”), which authorized the City Administrator to enter into a First Amendment to the Lease with Tenant (the “First Amendment to the Lease”) and to consent to a First Amendment to the Billboard Sublease between the Tenant and Subtenant (the “Sublease Agreement”).

NOW THEREFORE, in consideration of the covenants and promises herein set forth, the Parties hereto agree as follows:

TERMS

1. **Incorporation of Recitals.** The Recitals are incorporated as though fully set forth herein.
2. **Settlement Terms.** In consideration for the mutual covenants and promises herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:
 - a. Concurrently herewith, the Parties shall enter into that certain First Amendment to the Lease, in form attached hereto as Exhibit A;
 - b. Concurrently herewith, Tenants agrees to cause the execution of the First Amendment to the Billboard Sublease Agreement, in the form attached hereto as Exhibit B and City agrees to consent to such execution; and
 - c. Commencing as of the effective date of the First Amendment to the Lease, Tenant agrees to cause the Subtenant to collect, administer and remit to the City its portion of the Percentage Rent pursuant to the terms set forth in the First Amendment to the Billboard Sublease Agreement
3. **Attorney fees and costs.** Each Party shall be responsible for the payment of its own costs, attorneys’ fees, and all other expenses incurred in connection with the Percentage Rent Dispute and any matter or thing relating to this Agreement and the Released Claims.
4. **Release of all claims.** In consideration of the covenants undertaken herein, Tenant shall be deemed to have fully, finally, and forever released the City of Oakland, and all of its departments, officers, employees, attorneys and agents and any other person acting by, through, or in concert with City (the “Released Parties”), from any and all claims, charges, grievances, complaints, allegations, and causes of action for compensation, damages, injunctive relief, declaratory relief, costs, attorneys’ fees or any other form of relief of any nature whatsoever, whether the existence, nature or extent of the released claim is known or unknown, suspected or unsuspected, which Tenant has or might have, or which Tenant at any time heretofore had or might have had, claimed to have or may claim to have against the Released Parties arising in, or in connection with, or out of the Percentage Rent Dispute and any such claim arising in, or in connection with, or out of the claims described above(the “Released Claims”).
5. **Waiver of California Civil Code Section 1542.** Tenant recognizes and acknowledges that factors which have induced it to enter into this Agreement may turn out to be incorrect or to be different from what he had previously anticipated, and Tenant hereby expressly assumes any

and all of the risks thereof and further expressly assumes the risks of waiving the rights provided by California Civil Code section 1542, which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

6. **No admissions.** This Agreement affects claims and demands which are disputed, and by executing this Agreement, no Party admits or concedes any of the claims, defenses, or allegations which were raised or could be raised by any other Party or any third party. Neither this Agreement nor any part of this Agreement shall be construed to be an admission by any Party of any violation of law, nor shall this Agreement nor any part of it, nor any settlement negotiations or earlier drafts of this Agreement, be admissible in any proceeding as evidence of such an admission. This document may be introduced in a proceeding solely to enforce the terms of this Agreement and may be pleaded as a full and complete defense to any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted with respect to any of the Released Claims.

7. **Warranty of non-assignment.** The Parties warrant that they have not assigned any of the claims or portions of the claims that are the subject of this Agreement.

8. **Reserved**

9. **Indemnification & hold harmless.** Tenant expressly agrees to defend, indemnify and hold harmless the Released Parties, their agents, and insurers from any and all lawsuits, claims, liens, reimbursement or subrogation interests asserted (or which may be asserted in the future) arising from or related to this Percentage Rent Dispute, including but not limited to claims by any other third Party.

10. **No unwritten representations.** Each Party represents that in executing this agreement, the Party does not rely upon and has not relied upon any representation, promise, or statement not expressly contained herein.

11. **Complete agreement.** This Settlement Agreement and General Release, along with the First Amendment to the Lease and the First Amendment to the Billboard Sublease, represent the complete agreement between the Parties and supersedes any prior agreements or discussions between the Parties.

12. **Tax consequences and benefits.** The Released Parties make no representation as to the tax consequences of the settlement or this Agreement and make no representation as to Tenant's eligibility for public or private benefits.

13. **California law.** This Agreement is executed and delivered in the State of California, and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with the laws of the State of California.

14. **Interpretation and construction.** Any ambiguities or uncertainties herein shall be equally and fairly interpreted and construed without reference to the identity of the Party or parties preparing this document or the documents referred to herein, on the understanding that the Parties participated equally in the negotiation and preparation of the Agreement and the documents referred to herein or have had equal opportunity to do so. This Agreement has been arrived at through negotiation and none of the Parties is to be deemed the Party which prepared this Agreement or caused any uncertainty to exist within the meaning of Civil Code section 1654. The headings used herein are for reference only and shall not affect the construction of the Agreement.

15. **Breach, waiver and amendment.** No breach of this Agreement or of any provision herein can be waived except by an express written waiver executed by the Party waiving such breach. Waiver of any one breach shall not be deemed a waiver of any other breach of the same or any other provision of this Agreement. This Agreement may be amended, altered, modified or otherwise changed in any respect or particular only by a writing duly executed by the Parties hereto or their authorized representatives.

16. **Authority to execute.** Each Party hereto warrants to the other parties that he/she has the full power and authority to execute, deliver and perform under this Agreement and all documents referred to herein, and that any needed consent or approval from any other person has been obtained.

17. **Counterparts.** This Agreement may be executed by the Parties in any number of counterparts, all of which taken together shall be construed as one document. Any facsimile signature shall be valid and acceptable for all purposes as if it were an original.

18. **Effective date.** The effective date of this Agreement shall be the date the last signatory hereto signs the Agreement, but in no event earlier than the effective date of the Ordinance.

19. **Duty to act in good faith.** The Parties shall act in good faith and use their reasonable good faith efforts after the execution of this Agreement to ensure that their respective obligations hereunder are fully and punctually performed. The Parties shall promptly perform any further acts and execute and deliver any other documents or instruments that may be reasonably necessary to carry out the provisions of this Agreement.

20. **Binding on successors and assigns.** This Agreement and all documents referred to herein shall bind and inure to the benefit of each of the Parties hereto, their spouses, domestic partners, children, heirs, estates, administrators, representatives, executors, attorneys, successors and assigns.

21. **No third party beneficiaries.** Except as expressly provided herein, this Agreement is not for the benefit of any person not a party hereto or any person or entity not specifically identified as a beneficiary herein or specifically identified herein as a person or entity released hereby. The Agreement is not intended to constitute a third-party beneficiary contract.

22. **Agreement signed knowingly and voluntarily after opportunity to consult with counsel.** Tenant understands and agrees to this settlement agreement and to the terms and conditions contained herein and enters into this agreement knowingly and voluntarily. Tenant has been advised that he has the right to seek legal advice with respect to this Agreement, including the release, and has consulted with his legal counsel regarding this Agreement. The Parties have investigated the facts pertaining to this Agreement and all matters pertaining thereto as deemed necessary. The Parties have relied on their judgment, belief, knowledge, understanding and expertise after consultation with their counsel concerning the legal effect of the settlement and its terms.

23. **Savings clause.** If any term, condition, provision or part of this Agreement is determined to be invalid, void or unenforceable for any reason, the remainder of this Agreement will continue in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement and Release:

LANDLORD:

TENANT:

CITY OF OAKLAND, a municipal corporation

Prologis CCIG Oakland Global, LLC,
a Delaware limited liability company

By: _____
Its: _____

By: _____
Its: _____

Approved as to form and legality:

Office of the City Attorney

Date: _____