

[FOR RECORDER'S USE]

**DEVELOPMENT AGREEMENT
PROLOGIS PARK ROCHELLE/NIPPON SHARYO PARCEL**

Date: As of March ___, 2011

Parties: THE CITY OF ROCHELLE, an Illinois municipal corporation

and

PROLOGIS LAND LLC, a Delaware limited liability company

and

NIPPON SHARYO MANUFACTURING, LLC, a Delaware limited liability company

Property: Legally described on Exhibit A attached hereto.

Property Tax Identification Number(s): 25-31-200-021
25-31-200-023
25-32-100-004
25-32-100-009
25-32-200-006

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DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into as of the ___ day of March, 2011, among NIPPON SHARYO MANUFACTURING, LLC., a Delaware limited liability company ("NS"), PROLOGIS LAND LLC, a Delaware limited liability company ("**ProLogis**"), and the CITY OF ROCHELLE, an Illinois municipal corporation (the "**City**"):

WITNESSETH

THAT WHEREAS, ProLogis is the owner of certain real property located in the City of Rochelle, Ogle County, Illinois, and zoned I-2 (general industrial), the legal description of which is as shown on **Exhibit A** attached hereto ("**ProLogis Park**"), which has been partially subdivided under the name ProLogis Park Rochelle—Unit One, as shown on a plat of subdivision recorded on __, 2011, as document number _____, (the "**Unit One Subdivision Plat**") in the office of the Ogle County Recorder, Oregon, Illinois; and

WHEREAS, pursuant to a Purchase and Sale Agreement dated as of March __, 2011 (the "**Purchase and Sale Agreement**") NS purchased from ProLogis certain property within ProLogis Park as more particularly described on **Exhibit B** attached hereto (the "**NS Parcel**"); and

WHEREAS, NS intends to construct and operate a rail car manufacturing facility, including buildings, parking areas, driveways, rail spurs, a rail car test track and related structures and improvements (the "**NS Improvements**") on the NS Parcel; and

WHEREAS, as a material inducement to NS to purchase the NS Parcel: (1) ProLogis has agreed to make, install or construct, or cause to be made, installed or constructed, certain improvements with respect to ProLogis Park and the NS Parcel, all as more particularly described and/or depicted in a certain Site Development Agreement made as of _____, 2011 (the "**Site Development Agreement**"), by and between NS and ProLogis Logistics Services Incorporated; and (2) the City and ProLogis have agreed herein to make, install or construct, or cause to be made, installed or constructed, certain public improvements to be owned by, or dedicated to, the City, including roadways, water mains, sanitary sewers, electric facilities, fiber optic facilities, street lights, stormwater facilities and rail facilities (collectively, the "**Public Improvements**"), all as more particularly described herein and in **Exhibit C** attached hereto (collectively, the "**Development Plans**"); provided, however, in the event of a conflict between the text of this Agreement and the Development Plans, the Development Plans shall govern; and

WHEREAS, the City has heretofore received, or expects to receive, approval of grant applications/requests for funding of the costs of portions of the Public Improvements, including: a \$2,000,000.00 Economic Development Program ("**EDP**") grant from the Illinois Department of Transportation ("**IDOT**") for road improvements; a \$1,000,000.00 Community Development Assistance Program ("**CDAP**") grant from the Illinois Department of Commerce and Economic Opportunity Department ("**DCEO**") for water and sanitary sewer improvements; and a \$5,000,000.00 Freight Rail Program ("**FRP**") grant from the IDOT Bureau of Railroads for rail improvements (collectively, the "**Anticipated Grants**"); and

WHEREAS, as a material inducement to NS to construct the NS Improvements and to operate the rail car manufacturing facility on the NS Parcel, and in reliance on the promise of NS to do so, the City has agreed to provide certain economic incentives to NS and ProLogis, as more particularly described herein; and

WHEREAS, the parties intend by this Agreement to set forth the understandings and agreements regarding the Public Improvements and payment for same;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals and Terms. The recitals set forth above are a material part of this Agreement and are hereby incorporated in this Agreement by reference. This Agreement shall consist of the foregoing recitals, the provisions of all of the Sections and Subsections set forth herein, and all Exhibits and Schedules referred to herein and attached hereto. This Agreement includes all of the agreements between the parties with respect to the Public Improvements, and is intended to integrate, supersede and discharge all prior oral or written or contemporaneous oral agreements between the parties. This Agreement may be modified only by a written instrument signed by all of the parties.

2. Term. The term of this Agreement shall be five (5) years, commencing on the date set forth above ("Effective Date"), and expiring at the end of the day before the fifth (5th) anniversary date thereof, unless extended by agreement of the parties.

3. Rochelle Municipal Code to Apply. Except as expressly modified by this Agreement, and that certain Amendment to Annexation Agreement ProLogis Park (f/k/a DP Industrial, LLC Property) attached hereto as **Exhibit E** and to be recorded in the office of the Ogle County Recorder, the provisions of the Rochelle Municipal Code in effect from time to time shall govern the making, construction and/or installation of the Public Improvements. References to specific sections of the Rochelle Municipal Code in this Agreement are not intended to imply that sections thereof not specifically mentioned do not apply. In addition to any modifications of the provisions of the Rochelle Municipal Code expressly set forth in this Agreement, the following modifications shall apply:

(a) landscaping for the NS Parcel shown on the landscaping plan attached hereto as **Exhibit F** shall be required to be completed prior to issuance of a final/permanent occupancy certificate for the NS Improvements, and any other landscaping required for the NS Parcel shall be required to be completed prior to June 30, 2013;

(b) the paving of all temporary outside storage areas and internal circulation/emergency roadways shall be required to be completed prior to June 30, 2013;

(c) no stormwater management permit fees for ProLogis Park including the NS Parcel will be required.

4. Description of Public Improvements. The Public Improvements shall consist of the following, in the locations designated on the Development Plans:

(a) Road Improvements. The “**Road Improvements**” are in two parts: (i) Ritchie Road, from the westernmost termination of the existing improved portion thereof to the east line of a southward extension of the right of way for Ritchie Court as shown on the Unit One Subdivision Plat (“Ritchie Court”), will be improved with/to a road rated for 80,000 pound vehicles, constructed to rural standards, 36 feet wide edge-to-edge; and (ii) a new road connecting with Ritchie Road, as so improved, in Ritchie Court terminating at the north end in a cul-de-sac contiguous and providing access to the NS Parcel, will be constructed to urban standards, rated for 80,000 pound vehicles, 31 feet wide back to back, (collectively, the “**Road Improvements**”), by the City. All costs of the Road Improvements in excess of the funds received under/from the EDP grant shall first be paid 75% by NS, and 25% by ProLogis; provided, however, that such ProLogis payment shall not exceed \$118,203.00 (the “**ProLogis RI Payment Cap**”), as such amount may be adjusted pursuant to this Agreement. NS shall pay any costs of the Road Improvements in excess of the funds received under/from the EDP grant and the aforescribed payments by NS and ProLogis. In no event shall the City be required to pay for any of the Road Improvements which are not paid for by the EDP Grant. Upon receipt of an invoice for Road Improvements not covered by the EDP Grant, the City will bill the costs included in the invoice to ProLogis and NS in the appropriate percentage owed by each, and such bill from the City will be payable within 10 days of receipt. All payments by NS for the Road Improvements (the “**NS Road Improvements Payment**”) and all payments by ProLogis for the Road Improvements may be recaptured by NS and ProLogis as set forth on **Schedule 2** attached hereto. Anything contained in this Agreement to the contrary notwithstanding, in the event that the ProLogis RI Payment Cap is met/reached, or exceeded, and either the “ProLogis WI Payment Cap” (as defined in this **Section 4**), or the “ProLogis SSI Payment Cap” (as defined in this **Section 4**) is, or both the ProLogis WI Payment Cap and the ProLogis SSI Payment Cap are, not met/reached, or exceeded, at, and to the extent of, the request of NS, the ProLogis RI Payment Cap shall be increased by an amount or aggregate amounts up to: the amount, if any, by which the ProLogis WI Payment Cap exceeds the payment obligation of ProLogis under **Subsection 4(b)** and/or, the amount, if any, by which the ProLogis SSI Payment Cap exceeds the payment obligation of ProLogis under **Subsection 4(c)**. Any increase of the ProLogis RI Payment Cap as aforescribed shall reduce the ProLogis WI Payment Cap and/or the ProLogis SSI Payment Cap in the aggregate amount of such increase. For avoidance of doubt, in no event shall ProLogis’ total, aggregate contributions/payments for the Road Improvements, “Water Improvements” (as defined in **Subsection 4(b)**) and “Sanitary Sewer Improvements” (as defined in **Subsection 4(c)**) exceed \$184,535.00.

(b) Water Improvements. Approximately 1,100 feet of 12 inch water main to serve the NS Parcel will be constructed/installed by the City from the existing City water main along Ritchie Road, north along the west side of Ritchie Court to the NS Parcel (the “**Water Improvements**”). In the event the funds received under/from the CDAP grant exceed the aggregate costs of the Water Improvements and the Sanitary Sewer Improvements (as defined in **Subsection 4(c)**), the City may construct/install with such excess funds additional water improvements, at its sole cost and expense, within easements therefor created by the Unit One Subdivision Plat on the NS Parcel and ProLogis Park, extending north to connect to an existing City water main located on Americold Drive south of Wiscold Drive, in order to form a water main loop. Neither NS nor

ProLogis shall have any obligation to construct/install such additional water improvements, or pay for same. All costs of the Water Improvements in excess of funds received under/from the CDAP grant shall first be paid 75% by NS, and 25% by ProLogis; provided, however, that such ProLogis payment shall not exceed \$40,479.00. NS shall pay any costs of the Water Improvements in excess of the funds received under/from the CDAP grant and the aforescribed payments by NS and ProLogis. In no event shall the City be required to pay for any of the Water Improvements which are not paid for by the CDAP Grant. Upon receipt of an invoice for Water Improvements not covered by the CDAP Grant, the City will bill the costs included in the invoice to ProLogis and NS in the appropriate percentage owed by each, and such bill from the City will be payable with in 10 days of receipt. Anything contained in this Agreement to the contrary notwithstanding, in the event that the ProLogis WI Payment Cap is met/reached, or exceeded, and either the “ProLogis RI Payment Cap” (as defined in this **Section 4**), or the “ProLogis SSI Payment Cap” (as defined in this **Section 4**) is, or both the ProLogis RI Payment Cap and the ProLogis SSI Payment Cap are, not met/reached, or exceeded, at, and to the extent of, the request of NS, the ProLogis WI Payment Cap shall be increased by an amount or aggregate amounts up to: the amount, if any, by which the ProLogis RI Payment Cap exceeds the payment obligation of ProLogis under **Subsection 4(a)** and/or, the amount, if any, by which the ProLogis SSI Payment Cap exceeds the payment obligation of ProLogis under **Subsection 4(c)**. Any increase of the ProLogis WI Payment Cap as aforescribed shall reduce the ProLogis RI Payment Cap and/or the ProLogis SSI Payment Cap in the aggregate amount of such increase. For avoidance of doubt, in no event shall ProLogis’ total aggregate contributions/payments for the Road Improvements, Water Improvements and Sanitary Sewer Improvements exceed \$184,535.00.

(c) Sanitary Sewer Improvements. A 10 inch sanitary sewer line to serve the NS Parcel will be constructed/installed by the City from the existing City sanitary sewer line along Ritchie Road, north along the east side of Ritchie Court to the NS Parcel (the “**Sanitary Sewer Improvements**”). In the event the funds received under/from the CDAP grant exceed the aggregate costs of the Sanitary Sewer Improvements and the Water Improvements, the City may construct/install with such excess funds additional sanitary sewer improvements, at its sole cost and expense, including a new lift station and force main on Caron Road. Neither NS nor ProLogis shall have any obligation to construct/install such additional, sanitary sewer improvements or pay for same. All costs of the Sanitary Sewer Improvements in excess of the funds received from/under the CDAP grant shall first be paid 75% by NS, and 25% by ProLogis; provided, however, that such ProLogis payment shall not exceed \$25,853.00. NS shall pay any costs of the Sanitary Sewer Improvements in excess of the funds received under/from the CDAP grant and the aforescribed payments by NS and ProLogis. In no event shall the City be required to pay for any of the Sanitary Sewer Improvements which are not paid for by the CDAP Grant. Upon receipt of an invoice for Sanitary Sewer Improvements not covered by the CDAP Grant, the City will bill the costs included in the invoice to ProLogis and NS in the appropriate percentage owed by each, and such bill from the City will be payable within 10 days of receipt. Anything contained in this Agreement to the contrary notwithstanding, in the event that the ProLogis SSI Payment Cap is met/reached, or exceeded, and either the “ProLogis RI Payment Cap” (as defined in this **Section 4**), or the “ProLogis WI Payment Cap” (as defined in this **Section 4**) is, or both the ProLogis RI Payment Cap and the ProLogis WI Payment Cap are, not met/reached, or exceeded, at, and to the extent of, the request of NS, the ProLogis SSI Payment Cap shall be increased by an amount or aggregate amounts up to: the amount, if any, by which the ProLogis RI Payment Cap exceeds the

payment obligation of ProLogis under **Subsection 4(a)** and/or, the amount, if any, by which the ProLogis WI Payment Cap exceeds the payment obligation of ProLogis under **Subsection 4(b)**. Any increase of the ProLogis SSI Payment Cap as aforescribed shall reduce the ProLogis RI Payment Cap and/or the ProLogis WI Payment Cap in the aggregate amount of such increase. For avoidance of doubt, in no event shall ProLogis' total aggregate contributions/payments for the Road Improvements, Water Improvements and Sanitary Sewer Improvements exceed \$184,535.00.

(d) Rail Improvements. A City owned railroad track to serve the NS Parcel will be constructed/installed by the City, as follows: (i) ProLogis shall dedicate to the City the portion of the existing industrial railroad track located in ProLogis Park from the connection thereof with the existing City owned railroad track extending easterly to the first switch therefor; and (ii) by the construction/installation of a new connecting railroad track from such switch eastward to a point on the west boundary lot line of the NS Parcel (the "**Rail Improvements**"). In the event the funds received under/from the FRP grant exceed the cost of the Rail Improvements, such excess shall first be expended up to \$500,000.00 to pay for equipment and material for the railroad track and related equipment components of the NS Improvements. In the event the funds received under/from the FRP grant exceed the cost of the Rail Improvements and the aforescribed \$500,000.00 to be paid for equipment and material for the railroad track and related equipment components of the NS Improvements, the City may construct/install with such excess funds additional rail improvements, at its sole cost and expense, including without limitation a 2,000-foot extension of the City owned railroad track from the intersection of Caron Road and Creston Road south along Caron Road, an extension of the City owned railroad track from Caron Road, north of Steward Road, north and east along the Interstate 88 right-of-way to approximately the location of the existing BP Pipeline easement, and a second City owned railroad track from north of Interstate 88 along Caron Road south to a location north of the creek at the Ogle/Lee County Line. Neither NS nor ProLogis shall have any obligation to construct/install such additional rail improvements, or pay for same. NS shall pay any costs of the Rail Improvements in excess of the funds received under/from the FRP grant (the "**NS Rail Improvements Payment**"). The NS Rail Improvements Payment may be recaptured by NS as set forth on **Schedule 2** attached hereto. In no event shall the City be required to pay for any of the Rail Improvements which are not paid for by the FRP Grant. Upon receipt of an invoice for Rail Improvements not covered by the FRP Grant, the City will bill the costs included in the invoice to NS, and such bill from the City will be payable within 10 days of receipt. In consideration for the payment of up to \$500,000.00 of the FRP grant fund for railroad track and related equipment to be used in and for the NS Improvements, NS and ProLogis shall execute and deliver forms reasonably required from rail service users in the benefit area of the Rail Improvements or any additional rail improvements constructed/installed by the City as aforescribed in connection with an Economic Development Administration ("**EDA**") grant which the City intends to pursue related to the development of ProLogis Park and other properties (which forms shall not include any limitations on profits from the sale of land within ProLogis Park which are more restrictive than other agreements of ProLogis related to EDA grants currently in place with the City or which impose any other duty, liability or burden on ProLogis, NS or the NS Parcel or any property owned by ProLogis).

(e) Electric Facilities. A temporary 200 AMP, single phase 120/240 volt overhead electric service will be installed prior to May 15, 2011 by the City, at its sole cost and expense, from Ritchie Road to the construction trailers on the NS Parcel, to be used during construction only. NS

will pay for electric energy used during construction of the NS Improvements. Permanent electric facilities consisting of a 15 KV jacketed 750 MCM copper conductor will be installed by the City at its sole cost and expense from the existing Rochelle Municipal Utilities electric power distribution line on Ritchie Road to a 600 AMP fused disconnect switch on the NS Parcel. From such disconnect switch, two (2) runs of 15 KV jacketed 4/0 copper conductors will be installed by the City at its sole cost and expense to two (2) 3,000 KVA transformers (which transformers shall be provided by the City at no cost or rental or use charge to NS) that will be located on the north side of the NS manufacturing building on the NS Parcel. Prior to March 31, 2014, the City shall, at its sole cost and expense, provide looped electric energy service to the manufacturing building on the NS Parcel, by constructing an additional 15 KV jacketed 750 MCM copper conductor from the 600 AMP fused disconnect switch identified above, to a separate electric power distribution line. All of the foregoing shall constitute the "**Electric Facilities**".

(f) Street Lights. Street lights as required by the Rochelle Municipal Code for truck routes will be installed by ProLogis at its sole cost and expense, in accordance with all applicable law and governmental orders in a good workmanlike manner consistent with prevailing and commonly accepted practices, on the south side of Ritchie Road from Steward Road to Ritchie Court, and on the east side of Ritchie Court from Ritchie Road to and around the cul-de-sac for Ritchie Court, as shown on the Development Plans (the "**Street Lights**"). The Street Lights shall be designed according to International Electrical Standards to have an average to minimum ratio of less than 4:1, and a maximum to minimum luminance ratio of less than 12:1.

(g) Stormwater Facilities. Pond-to-pond connecting stormwater sewers and detention ponds, as shown on the Development Plans (the "**Stormwater Facilities**"), will be constructed by ProLogis at its sole cost and expense to, in accordance with all applicable law and governmental orders in a good workmanlike manner consistent with prevailing and commonly accepted practices, service the NS Parcel. In connection with the Stormwater Facilities, ProLogis shall obtain at its sole cost and expense all permits, consents and approvals required by law therefor including as may be required to be obtained from the Illinois State Toll Highway Authority for discharge/outlet from the Stormwater Facilities into the stormwater/drainage system of the Illinois State Toll Highway, or to perform any work on, under upon or across land owned or operated by the Illinois State Toll Highway Authority. As part of the aforescribed obligation, any provision of this Agreement notwithstanding, ProLogis, at its sole cost and expense, will furnish any insurance or bonding required by the Illinois State Toll Highway Authority.

(h) Fiberoptic Facilities. The City will install at its sole cost and expense a 12-count underground fiber optic cable from an existing fiber pit located near Ritchie Road and Steward Road. The fiber optic cable will follow Ritchie Road east to Ritchie Court and along Ritchie Court into the NS Parcel, terminating at a location inside the manufacturing building on the NS Parcel as designated by NS (the "**Fiberoptic Facilities**").

(i) Landscaping. Landscaping as shown on the Development Plans will be installed and constructed by ProLogis at its sole cost and expense, in accordance with all applicable law and governmental orders in a good workmanlike manner consistent with prevailing and commonly accepted practices.

5. Construction of Public Improvements Subject to Funding by Anticipated Grants.

The parties, in accordance with their respective duties and obligations set forth in this Agreement, shall construct and/or install, or to cause to be constructed and/or installed, the Public Improvements, in accordance with the “**Construction Schedule**” set forth in **Exhibit D** attached hereto, subject to the terms of this Agreement. City shall provide the systems, facilities and services described herein at the times required. To the extent required by the Anticipated Grants, the City shall be responsible for letting bids for, and coordinating, administering, supervising, causing, managing and/or overseeing construction/installation of, the Road Improvements, the Water Improvements, the Sanitary Sewer Improvements and the Rail Improvements. In the event any of the applicable/related funding Anticipated Grants is totally unfunded by the time set forth in **Exhibit D** for commencement of the particular Public Improvements to be funded thereby, at the direction of NS, the City shall transfer all related permits and approvals and underlying and related plans, drawings and specifications to ProLogis and NS, and ProLogis shall then be responsible, with the advice and consent of NS, for soliciting and letting bids for, and coordinating the construction/installation of, such Public Improvements, all at the sole cost and expense of NS, except for the payment/contribution/construction obligations of ProLogis set forth in **Section 4**, which together with the construction/installation obligations of ProLogis set forth in Subsections 4(f), (g) and (i), shall in all events remain the liability of ProLogis. The City shall in all events be responsible for the construction/installation of the Electric Facilities and the Fiberoptic Facilities in accordance with this Agreement. All of the Public Improvements which ProLogis is obligated to construct/install or let bids for, oversee, coordinate, administer, supervise, cause or manage shall be constructed/installed on an “open book” basis. NS shall enter into construction contracts acceptable to NS directly with the contractors constructing such Public Improvements, except those described in **Subsections 4(f), (g) and (i)**, and ProLogis shall have no liability or obligation relating thereto, except for the payment/contribution obligations of ProLogis set forth in **Section 4**. NS shall have full access to and right of review of all contracts, subcontracts and sub-subcontracts, and all other information and material, related to the design, engineering, labor or material for all of the Public Improvements which ProLogis is obligated to construct/install or let bids for, oversee, coordinate, administer, supervise, cause or manage pursuant to this **Section 5**. Except as expressly set forth in this Agreement, no amounts paid or payable by the City or ProLogis for Public Improvements or otherwise under this Agreement or for the benefit of NS or the NS Parcel shall ever be recoverable from NS or its successors or assigns or the NS Parcel in any manner whatsoever including by means of any public or private assessment, fee or charge.

6. Security for Completion of Public Improvements. ProLogis shall deposit with the City one or more payment bond(s), letter(s) of credit, or cash, as determined by ProLogis, as security for payments required in connection with the Road Improvements, in the face amount of \$645,013.00 (representing 110% of the total estimated cost of the Road Improvements, less the Anticipated Grant funding for the Road Improvements and less engineering fees) (the “**Payment Bond**”). Except as set forth below, neither ProLogis nor NS shall be obligated to post, deposit or provide any further security for the completion of the Public Improvements, beyond that deposited by ProLogis pursuant to this **Section 6**, and, in the event that ProLogis is responsible for overseeing the construction of the Road Improvements, as set forth in **Section 5** above, the Payment Bond shall need not be posted and is not required. The security deposited by ProLogis pursuant to this **Section 6** shall be held by the City for the completion of the Road Improvements, and immediately returned to ProLogis upon the completion of the Road Improvements. In the

event the security deposited by ProLogis pursuant to this **Section 6** is drawn because of a default under this Agreement by NS, NS shall immediately pay ProLogis the amount drawn thereunder. Upon the request of ProLogis made not more frequently than once per month, the face amount of the Payment Bond may be reduced by the total amount of reimbursement payments made by ProLogis and/or NS to the City for the Road Improvements prior to such date. Notwithstanding the foregoing, if required by the Rochelle Municipal Code with regard to the Public Improvements set forth in **Subsections 4(f), (g) and (i)**, ProLogis shall additionally post customary performance/completion bonds for such work, which shall stay in effect for the customary warranty period (the “**Performance Bonds**”). Notwithstanding the fact that the amount of the security has been calculated excluding engineering costs, said costs, to the extent not covered by the EDP Grant, are payable 75% by NS and 25% by ProLogis subject to the ProLogis RI Payment Cap.

7. Dedication of Public Improvements, Easements and Rights of Way. All of the Public Improvements will be dedicated to the City upon completion and acceptance by the City. All of the easements and rights-of-way for the Public Improvements, where designated on the Development Plans, shall be conveyed and/or dedicated to the City. The parties acknowledge that the location of the City easement westerly of the 50 foot gas pipeline easement (located southwesterly of and contiguous to the NS Parcel may need to be changed, and shall cooperate in any such relocation; provided the same in no way materially impairs the development or value of the NS Parcel or any land owned by ProLogis in ProLogis Park. Any conveyance of real estate to the City pursuant to this Agreement shall be by special warranty deed, plat of subdivision, plat of dedication or appropriate dedication on a recorded plat of subdivision conveying good and merchantable fee simple title to the City. Any deed of conveyance shall be subject only to covenants, restrictions and easements of record (provided the same do not render the real estate unsuitable for the purposes for which it is being conveyed), the terms of this Agreement, general taxes for the year in which the conveyance is made, and such other exceptions as may be agreed to by the City in writing. NS and/or ProLogis, as the case may be, shall grant or cause the granting of utility easements across the NS Parcel and/or ProLogis Park to or for the benefit of the City or the applicable utility providers, where and for the purposes designated on the Development Plans, to allow the City and/or the applicable utility providers to lay utility lines and deliver utility service to the NS Parcel. All Public Improvements constructed or lines laid within such public rights of way or utility easements shall be dedicated to and be the property of the City or the utility service provider when constructed or laid and, to the extent the City constructs or lays, or causes to be constructed or laid, such improvements or lines, such improvements or lines shall be owned by the City when constructed or laid, and the City shall be deemed to have accepted same at such time in accordance with the requirements of the Rochelle Municipal Code, including without limitation Sections 86-54 through 86-57.

8. Reimbursement to City. ProLogis shall reimburse the City, in a total amount not to exceed \$20,000.00, for all actual and reasonable professional fees, costs or other expenses incurred by the City through the date of March 31, 2011, in connection with the negotiation and approval of this Agreement and related matters, including without limitation reasonable legal fees, reasonable charges for staff time, planning and engineering consultant fees and grant procurement and administration fees and costs (except to the extent grant procurement costs have been separately paid by NS), it being expressly understood that ProLogis shall have no liability for any such costs

and expenses incurred prior to February 11, 2011. In accordance with Section 86-57 of the Rochelle Municipal Code, ProLogis has deposited the sum of \$20,000.00 with the City to be held by City as security for the foregoing reimbursement obligation under this section. Following March 31, 2011, City will bill ProLogis and NS monthly for reimbursement costs related to the Public Improvements, and City's invoices for same shall be payable 75% by NS and 25% by ProLogis upon receipt. Following March 31, 2011, prior to incurring any material reimbursement costs (for purposes hereof, a reimbursement cost shall be deemed material if it amounts to more than \$2,000.00 in a one month period), City shall notify ProLogis and NS regarding the need for the same, and ProLogis and/or NS shall have the right to object thereto, in which event the City, ProLogis and NS shall attempt in good faith to agree to the scope and estimated expenses for any such work. Except as expressly provided in this **Section 8**, under no circumstance and in no event shall NS or ProLogis have any direct or indirect (by reimbursement, recapture or otherwise) liability to the City (or as to NS, also to ProLogis), or any third party for any matters, things, services, costs, expenses or expenditures of the type or nature described in this **Section 8**.

9. Excavation, Grading, and Preparation for Development Work. Prior to the construction of any improvements on the NS Parcel or in ProLogis Park pursuant to the Site Development Agreement, ProLogis shall, at its sole cost and expense, secure all required permits and approvals related to such work from any applicable federal or state agencies relating to archeological significance, endangered species, floodplain/floodway or wetlands. ProLogis shall have the right, prior to obtaining approval of final engineering drawings or prior to approval of any final version of the Unit One Subdivision Plat by the City, to undertake excavation, preliminary grading work, filling, and soil stockpiling on the NS Parcel and/or ProLogis Park in preparation for the Development Work based solely on submittal of a grading plan, soil erosion and sedimentation control plan and drainage plan to the City, which plans shall be promptly approved by the City, provided said plans are in accordance with all applicable provisions of the Rochelle Municipal Code. Such work shall be undertaken without injury to the property of surrounding property owners.

10. Construction Traffic Routes and Parking. The route of access to the NS Parcel and/or ProLogis Park for construction traffic related to the NS Parcel shall be over and across Ritchie Court, or at the discretion of NS, and/or over and across the "Secondary Construction Access Easement" (as described in the Purchase and Sale Agreement), pursuant to the terms and conditions of the "**Temporary Construction Easement Agreement**" (as defined in **Section 21**). ProLogis shall keep all routes used for construction traffic free and clear of mud, dirt, debris, obstructions and hazards and shall repair all damage caused by ProLogis construction traffic. NS shall repair all damage caused by NS construction traffic. All construction vehicles, including passenger vehicles, and construction equipment shall be parked within the NS Parcel and/or ProLogis Park in areas designated by the City.

11. NS/City Agreements. As between themselves, NS and the City make the agreements shown on **Schedule 1** attached hereto.

12. Force Majeure. Any party shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event that, and only for as long as, the performance of any such

obligation is prevented, delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, extraordinary action of the elements, war, invasion, insurrection, terrorism, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strike, lockout, action of labor unions, condemnation, requisition, order of government or civil, military or naval authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of such party.

13. Notices. All notices, approvals, requests, instructions, identifications, directions, demands, disclosures, waivers, authorizations, advice, certifications, consents, elections, acceptances, agreements, extensions or other communications herein required or which either party desires to give to the other shall be in writing and shall be sent by certified or registered, return receipt requested, postage prepaid, mail, personal delivery, receipt confirmed facsimile transmission, receipt confirmed electronic mail or recognized, commercial courier which maintains evidence of delivery, and shall be deemed sufficiently given if mailed, transmitted or delivered to the respective party at the address noted for said party below, (or if more than one (1) address is so noted, then to any one of such noted addresses). All communications sufficiently given are deemed given when received. Copies of all communications to the parties shall, to be effective, be simultaneously given in the same manner to the respective legal counsel of the parties as set forth below.

Address of ProLogis: ProLogis Land LLC
8755 West Higgins Road
Suite 700
Chicago, Illinois 60631
Attn: James Nass
Telecopier No.: [REDACTED]
Email: [REDACTED]

Legal Counsel for ProLogis : c/o ProLogis
4545 Airport Way
Denver, Colorado 80239
Attn: Legal Department
Telecopier No.: [REDACTED]
Email: [REDACTED]

Address of NS: c/o Nippon Sharyo Manufacturing, LLC.
2340 S. Arlington Heights Road
Suite 605
Arlington Heights, IL 60005
Attn: Mr. Akira (Kevin) Koyasu
Telecopier No.: (847) 228-5530
E-Mail: koyasu@nipponsharyo.com

Legal Counsel for NS: Masuda, Funai, Eifert & Mitchell, Ltd.
203 N. LaSalle Street, Suite 2500

Chicago, Illinois 60601
Attention: Keith W. Groebe, Esq.
Telecopier No.: (312) 245-7467
E-Mail: kgroebe@masudafunai.com

Address of the City:

City of Rochelle
420 N. 6th Street
Rochelle, IL 61068
Attn: City Manager
Telecopier No.: [REDACTED]
Email: [REDACTED]

Legal Counsel for the City

Law Offices of Alan H. Cooper
233 East Route 38, Suite 202
P. O. Box 194
Rochelle, IL 61068
Attn: Alan H. Cooper, Esq.
Telecopier No.: (815) 562-3857
E-Mail: cooplaw@rochelle.net

14. Miscellaneous. Time is of the essence. This Agreement is governed by Illinois law. Each party shall do, make, execute and deliver such additional and further acts, deeds, instruments and documents as may be reasonably required to carry out the provisions of this Agreement. To facilitate execution, this Agreement may be executed in as many counterparts as may be deemed appropriate by the parties, all of which when taken together shall comprise one and the same agreement. The various headings used in this Agreement are solely for convenience only and shall not be used in interpreting the text before which the same appear. If the time period by which any right, option, or election provided under this Agreement must be exercised, or by which any act required herein must be performed, expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day. Except for a permitted assignment of this Agreement by ProLogis to ProLogis Logistics Services Incorporated, a Delaware corporation (which assignment shall not release ProLogis from any obligation hereunder), this Agreement may not be assigned by any party without the prior consent of all of the other parties.

15. Termination. This Agreement shall be deemed fully performed and shall automatically terminate upon the completion and acceptance by the City of all of the Public Improvements; provided that no party is then in default under this Agreement. At any time following the termination of this Agreement, upon the request of any party, the other party shall promptly execute in recordable form a memorandum of termination sufficient to confirm the termination of this Agreement.

16. Separability of Provisions. This Agreement shall not be severable or divisible; provided, however, that a judicial or administrative determination in any jurisdiction of the invalidity or unenforceability of any one or more of the provisions hereof, or any Exhibit, Schedule or document related hereto or referred to herein shall not invalidate the remaining provisions of this

Agreement or any Exhibit, Schedule or document related hereto or referred to herein, or the application of such provision(s) to persons or circumstances other than those in respect to which it is determined to be invalid or unenforceable, all the provisions of the same being deemed for purposes of the aggregate validity thereof to be separate and severable. Further, with respect to any such provision(s) determined to be invalid or unenforceable, such provision(s) shall be deemed reformed to be valid and enforceable, and to accomplish the intention of the parties as is most nearly possible.

17. Advice of Counsel. Each of the parties represents that it has been represented by its own legal counsel with regard to the execution of this Agreement or that, if acting without legal counsel, it has had adequate opportunity and has been encouraged to take the advice of its own legal counsel prior to the execution of this Agreement.

18. Definitions and Interpretations. All capitalized words and phrases used herein shall have the meaning ascribed thereto by this Agreement, or if such is silent then there shall be ascribed thereto the normal, everyday meaning as used in the construction and related fields. As used herein references to "and" as well as to "or" shall be construed either conjunctively or disjunctively as necessary and wherever appropriate. The singular form of a word shall be interpreted herein to include the plural or vice-versa. The word "person" or "persons" as used herein shall mean natural or artificial person(s) or any recognized forms of organization or entity. The masculine, feminine or neuter form of any word used herein shall be interpreted to be that form necessary for factual and grammatical accuracy. All Section, Subsection, Exhibit and Schedule references herein are to the Sections and Subsections of and Exhibits and Schedules to this Agreement. All references in this Agreement to "hereto", "hereunder", "hereof" or "herein" refer to this Agreement together with the Exhibits. Wherever herein, a word or phrase is defined, or deemed to have or given a specific meaning, such definition and meaning shall apply to such word or provision wherever the same might appear anyplace throughout this Agreement, unless specifically designated otherwise. Use of the word "party" or "parties" herein shall mean respectively, a signatory, or more than one signatory to this Agreement. The official language of this Agreement is English. Any translation hereof into any other language shall be deemed to be only an accommodation. As such, in the event of any inconsistency in meaning or interpretation between this Agreement and any translation hereof into any language other than English, this Agreement in the English language shall control and be the binding, enforceable and official contract between the parties from and by which all rights and duties of the parties arise and exist.

19. Duties and Rights. No action or failure to act by any party shall constitute a waiver of any right, remedy or recourse, nor shall any such action or failure to act constitute an approval of or acquiescence in any default hereunder, except as may be specifically agreed or set forth herein. No waiver by any party of any default shall operate as a waiver of any other default or of the same default on a future occasion. All rights, remedies and recourses of the parties shall be considered to be cumulative and not exclusive. Any failure of any party to enforce at any time any provision hereof shall not be construed as a waiver of such provision or any other provision hereof.

20. Precondition to Effectiveness. The effectiveness of this Agreement and the existence of any rights or duties of the parties hereunder created hereby, are expressly made subject to and preconditioned upon the occurrence and completion of the "Closing" as defined in the Purchase

and Sale Agreement, prior to June 1, 2011. If the Closing has not occurred and been completed as of June 1, 2011, then this Agreement shall terminate and be null and void without further action of any party and no party hereto shall have any right or duty with respect to any other party arising herefrom.

21. Temporary Construction Access Improvements. Pursuant to a certain Temporary Construction Easement Agreement to be entered into by and between NS and ProLogis (the "**Temporary Construction Easement Agreement**"), ProLogis shall be obligated to make, or cause there to be made, certain temporary/construction related improvements for the benefit of NS and/or the NS Parcel. Certain of such improvements shall be required to be made on, over, within and across Ritchie Court, generally for temporary/construction related ingress to and egress from the NS Parcel. The City hereby consents to the making and maintenance of the aforescribed improvements to, and use of, Ritchie Court.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

THE CITY OF ROCHELLE, an Illinois
municipal corporation

BY: _____

NAME: _____

ITS: City Manager

ATTEST: _____
City Clerk

NIPPON SHARYO MANUFACTURING,
LLC, a Delaware limited liability company

BY: _____

NAME: _____

ITS: _____

PROLOGIS LAND LLC, a Delaware
limited liability company

BY: ProLogis, a Maryland real estate
investment trust, its sole member

BY: _____

NAME: _____

ITS: _____

EXHIBIT A
Legal Description of ProLogis Park

EXHIBIT B
Legal Description of NS Parcel

EXHIBIT C
Development Plans

EXHIBIT D
Construction Schedule

EXHIBIT E
Amendment to Annexation Agreement

EXHIBIT F
Landscape Plan

EXHIBIT C
Development Plans

PUBLIC IMPROVEMENTS (CITY)

Road Improvements.

(i) Ritchie Road, from the westernmost termination of the existing improved portion thereof to the east line of a southward extension of the right of way for Ritchie Court as shown on the Unit One Subdivision Plat (“Ritchie Court”), will be improved with a road rated for 80,000 pound vehicles, constructed to rural standards, 36 feet wide edge-to-edge; and

(ii) Ritchie Court, a new road connecting with Ritchie Road, as so improved, in Ritchie Court terminating at the north end in a cul-de-sac contiguous and providing access to the NS Parcel, will be constructed to urban standards, rated for 80,000 pound vehicles, 31 feet wide back to back.

Water Improvements. Approximately 1,100 feet of 12 inch water main to serve the NS Parcel will be constructed/installed by the City from the existing City water main along Ritchie Road, north along the west side of Ritchie Court to the NS Parcel.

Sanitary Sewer Improvements. A 10 inch sanitary sewer line to serve the NS Parcel will be constructed/installed by the City from the existing City sanitary sewer line along Ritchie Road, north along the east side of Ritchie Court to the NS Parcel.

Rail Improvements. A City owned railroad track to serve the NS Parcel will be constructed/installed by the City, as follows:

(i) ProLogis shall dedicate to the City the portion of the existing industrial railroad track located in ProLogis Park from the connection thereof with the existing City owned railroad track extending easterly to the first switch therefor; and

(ii) by the construction/installation of a new connecting railroad track from such switch eastward to a point on the west boundary lot line of the NS Parcel.

Electric Facilities.

(i) A temporary 200 AMP, single phase 120/240 volt overhead electric service will be installed from Ritchie Road to the construction trailers on the NS Parcel, to be used during construction only; and

(ii) Permanent electric facilities consisting of a 15 KV jacketed 750 MCM copper conductor will be installed from the existing Rochelle Municipal Utilities electric power distribution line on Ritchie Road to a 600 AMP fused disconnect switch on the NS Parcel. From such disconnect switch, two (2) runs of 15 KV jacketed 4/0 copper conductors will be installed to two (2) 3,000 KVA transformers that will be located on the north side of the NS manufacturing building on the NS Parcel. Prior to March 31, 2014, the City shall provide looped electric energy service to the

manufacturing building on the NS Parcel, by constructing an additional 15 KV jacketed 750 MCM copper conductor from the 600 AMP fused disconnect switch identified above, to a separate electric power distribution line.

Fiberoptic Facilities. A 12-count underground fiber optic cable will be installed from an existing fiber pit located near Ritchie Road and Steward Road. The fiber optic cable will follow Ritchie Road east to Ritchie Court and along Ritchie Court into the NS Parcel, terminating at a location inside the manufacturing building on the NS Parcel as designated by NS.

PUBLIC IMPROVEMENTS (PROLOGIS)

Street Lights. Street lights as required by the Rochelle Municipal Code for truck routes will be installed by ProLogis, in accordance with all applicable law and governmental orders in a good workmanlike manner consistent with prevailing and commonly accepted practices, on the south side of Ritchie Road from Steward Road to Ritchie Court, and on the east side of Ritchie Court from Ritchie Road to and around the cul-de-sac for Ritchie Court. The Street Lights shall be designed according to International Electrical Standards to have an average to minimum ratio of less than 4:1, and a maximum to minimum luminance ratio of less than 12:1. The Street Lights installation shall be in accordance with design drawings as prepared by Kornacki And Associates, Inc., identified as follows: Sheets E1 (Electrical Site Plan), E2 (Photometric Site Plan), and E3 (Street Lighting Details), all dated 3-24-11

Stormwater Facilities. Pond-to-pond connecting stormwater sewers and detention ponds will be constructed by ProLogis in accordance with all applicable law and governmental orders in a good workmanlike manner consistent with prevailing and commonly accepted practices, to service the NS Parcel. The Stormwater Facilities shall be installed in accordance with civil engineering drawings prepared by Jacob & Hefner Associations, Inc., identified as follows: Sheet C1 (Cover Sheet), Sheet C2 (Typical Sections), Sheet C3 (Master Grading Plan), Sheet C4 (Existing Conditions & Removal Plan), Sheet C5.1 (Mass Grading Plan), Sheet C5.2 (Mass Grading Plan), Sheet C5.3 (Mass Grading Plan), Sheet C5.5 (Mass Grading Plan), Sheet C6 (Storm Water Pollution Prevention Plan), Sheet C7 (Specifications), and Sheet C8 (Details), all dated 3-17-11.

Landscaping. Landscaping will be installed and constructed by ProLogis, in accordance with all applicable law and governmental orders in a good workmanlike manner consistent with prevailing and commonly accepted practices, in accordance with landscaping design drawings prepared by Gary R. Weber Associates, Inc., identified as follows: Sheet L1 (Buffer Planting Plan) dated 3-22-11, and Sheet L2 (Details & Specifications), dated 3-3-11, subject to any field adjustments required by the City to accommodate utilities.

EXHIBIT D
Construction Schedule

#	Construction Milestones	Substantial Completion Dates
1	Closing	31-Mar-11
2	Enterprise Zone Approval	31-Mar-11
3	ProLogis Receives Permit for Development Work	4-Apr-11
4	Temporary Construction access Ritchie Court	4-Apr-11
5	CDAP Grant Award	18-Apr-11
6	Temporary Construction access Ritchie Court Haul Road	22-Apr-11
7	Bureau of Railroads	22-Apr-11
8	EDP / IDOT Grant Award	22-Apr-11
9	Electric Facilities - First Transformer, Not Looped	1-Jun-11
10	Fiber Optics Conduit Installed	1-Jun-11
11	Nippon 35 Acres Mass Earthwork	6-Jun-11
12	Pond Mass Earth Work	6-Jun-11
13	Electric Facilities - Second Transformer, Not Looped	15-Jun-11
14	Storm Water Facilities Pond to Pond to Pond	27-Jun-11
15	ProLogis Future Building Mass Earthwork	15-Jul-11
16	Landscaping	15-Jul-11
17	Secondary Temporary Construction Access Across Lot 2	18-Jul-11
18	Nippon Sharyo Rail Materials Delivered	30-Sep-11
19	Street Lights	20-Oct-11
20	Ritchie Court Improvements	30-Nov-11
21	Ritchie Road Improvements	30-Nov-11
22	Water Improvements to Site, Not Looped	1-Dec-11
23	Sanitary Sewer Improvements to Site	2-Dec-11
24	Nippon Sharyo Rail Access	1-May-12
25	City Rail Improvements	30-Sep-12

SCHEDULE 1

NS/ City Agreements

1. Emergency Access. Access to the NS Parcel by the City for purposes of utility maintenance or repair purposes shall be allowed only after communication with a 24-hour contact for NS, which shall be provided by NS to the City.

2. Construction Observation. NS shall have the right to have an observer present during construction of any of the Public Improvements; provided, however, that the observer may not interfere with construction or give directions to any of the contractor(s), and provided further that construction need not be delayed by the absence of any observer from the construction site.

3. Exercise of Self-Help by City. In the event of the default by ProLogis in the failure to: (a) complete the Public Improvements described in **Subsections 4(f), (g) or (i)**, then after notice to ProLogis and the expiration of a period of fifteen (15) days to cure such default, City will, if such default is not cured, exercise its right to utilize any or all of the Performance Bonds to complete the Public Improvements described in Subsections 4(f), (g) or (i); or (b) make any required payments for Public Improvements hereunder, then after notice to ProLogis and the expiration of a period of fifteen (15) days to cure such default, City will, if such default is not cured, exercise its right to utilize any or all of the Payment Bond to pay for such of the Public Improvements; provided, however, that nothing contained in this **Section 3** shall in any event whatsoever impose any financial obligation on the City.

4. The City shall exercise good faith reasonable efforts to cause the Lee County Enterprise Zone to be expanded as soon as possible after the Effective Date to include the NS Parcel.

SCHEDULE 2
Recapture Rights

The parties acknowledge that ProLogis has succeeded to the interests of DP Industrial, LLC, in that certain Recapture Agreement recorded in the office of the Ogle County Recorder on August 25, 2005, as document number 0509165, and that the recapture amount for the Public Road Improvements (as described therein) will be calculated as follows: 50% of the contribution/payment of ProLogis for Road Improvements. NS shall have no liability under or obligation to pay, and the NS Parcel and any other real property acquired by NS within ProLogis Park shall not be charged, burdened or encumbered with, any liability or obligation for the payment of, any amount pursuant to the aforescribed Recapture Agreement or like arrangement. Prior to the Closing, the City and NS shall enter into a recapture agreement in accordance with Illinois compiled statutes, 65 ILCS 5/9-5-1, for purposes of securing for NS the right to recapture: an appropriate portion of the NS Road Improvements Payment from and against the land south of Ritchie Road between Steward Road and the east line of a southward extension of Ritchie Court (which is the benefiting property identified in the Recapture Agreement described above); and, an appropriate portion of the NS Rail Improvements Payment from and against the land southwesterly of the 50 foot gas pipeline easement (located southwesterly of and contiguous to the NS Parcel), north of Ritchie Road and south of the Rail Improvements in the event of any connection to the Rail Improvements to service such land. With regard to any recapture of the NS Rail Improvements Payment only, credit shall be given to ProLogis for the fair market value for any land dedicated by ProLogis for the Rail Improvements. In no event shall the City or NS have any right to recapture the NS Road Improvements Payment or any payment by NS for Sanitary Sewer Improvements or Water Improvements against any land owned by ProLogis or any affiliate of ProLogis.