



September 13, 2021

Michele Churpak
FedEx Ground Package Systems Inc.
1000 FedEx Drive
Moon Township, PA 15108
Via Electronic Mail Only to michele.churpak@FedEx.com

Subject: Lease Liability Clarification Letter
Former Amoco Oil Terminal Site
2929 Havlor Lane, Superior, Wisconsin 54880
Parcel #: Portions of 06-806-00739-01, 06-806-00739-06
BRRTS Activity Name: 02-16-000331
FID #: 816009920
BRRTS #: 07-16-583046

Dear Ms. Churpak:

The Wisconsin Department of Natural Resources (DNR) received a request for a lease liability clarification from Samantha Schmidt from Braun Intertek on behalf of FedEx Ground Package System Inc. on August 17, 2021 (Request). The Request was submitted with the appropriate review fee for the licensed premises (Property) identified above. The purpose of this letter is to provide you clarification as to environmental liabilities associated with the use of real property from Thompson Land Company LLP. Wisconsin Statutes (Wis. Stat.) § 292.55(1)(d)1 authorizes the DNR to issue a letter to a person seeking assistance concerning the liability of a person for environmental pollution at a property. The DNR based this letter on review of environmental reports and the Agreement that were provided in the Request:

- Liability clarification letter request, completed Form 4400-237, signed August 6, 2021, including a cover letter and attachments.
- License Agreement between FedEx Ground Package System Inc. and Thompson Land Company LLP signed and executed on September 15, 2020. The Agreement includes exhibits with a map of the Property. The Agreement includes a Second Amendment to License Agreement, dated March 31, 2021, (collectively referred to as “the Agreement”). The Agreement is included as an attachment to this letter.

PROPERTY USE

The Property is currently vacant. The proposed use of the Property is for vehicular parking and storage.

BACKGROUND AND ENVIRONMENTAL SUMMARY

The Property is part of the former Amoco Oil Terminal facility (Site), a bulk petroleum storage and distribution facility with a 100-year operational history that had storage capacity of 50 million gallons of petroleum. Several discharges of hazardous substances were reported by Amoco to the DNR which assigned BRRTS # 02-16-000331 to the Site. BP Products North America is the responsible party for the Site. The Site is currently open with on-going investigative and remedial work to address volatile organic

compounds (VOCs) and polynuclear aromatic hydrocarbons (PAHs) contamination found in the soil and groundwater on the Property. An area of light non aqueous phase liquid (LNAPL) was identified approximately 15 feet below grade underlying the Property.

The petroleum storage and distribution facility was decommissioned around 2000, with all storage tanks and piping removed. The Amoco facility property was subdivided and portions sold. A parcel was sold in 2005 and was developed as a FedEx distribution facility. FedEx's purpose of licensing the Property is for parking and storage needed for a planned expansion of the parking area for the distribution facility.

LICENSE AGREEMENT

The DNR received the License Agreement, DM#2055582v.3 – Duluth, MN (#0558) – Parking License, signed and executed on September 15, 2020. The amount of the license fee in the copy of the Agreement provided to the DNR was redacted. The Second Amendment to License Agreement dated March 31, 2021, was also included (collectively referred to as “the Agreement”). The Agreement allows the Licensee to use the Property for vehicle parking and storage. Section 9(A) and 11 of the Lease includes indemnity provisions that describes responsibilities regarding hazardous substances and remedial actions on the Property.

DETERMINATIONS

The DNR reviewed the documents described above and the reports in the DNR files and determined, based on proposed use and current environmental conditions, that FedEx Ground Package System Inc., as Licensee under the Agreement would not “possess or control,” as those terms are used in Wis. Stat. § 292.11(3), any hazardous substance discharges that are present on the Property prior to signing the Agreement, whether known at this time or discovered in the future. This determination is conditioned on compliance with the following standards of performance:

- FedEx Ground Package System Inc. must provide any responsible party, their consultants and DNR personnel with reasonable access to the Property for the purposes of conducting any necessary environmental assessment or remediation activities.
- FedEx Ground Package System Inc. or its representatives, agents or contractors, must comply with all applicable state and federal laws that apply if they conduct any excavation, storage, treatment or disposal of contaminated soils, groundwater or other materials on the Property.
- FedEx Ground Package System Inc. must minimize, to the extent practicable, the placement of any structures in areas of the Property impacted by environmental contamination, or construct buildings in such a manner as to allow remedial work to be conducted.
- FedEx Ground Package System Inc. must comply with the requirements of Wis. Stat. § 292.11 and Wisconsin Administrative Code (Wis. Admin. Code) chs. NR 700 to 799 for the discharge of any hazardous substances or environmental pollution that may be caused by FedEx Ground Package System Inc. or its contractors.
- FedEx Ground Package System Inc. has not and will not have direct or indirect business relationships (other than as FedEx Ground Package System Inc. under the Agreement for the

Property) with the person or persons who caused the discharge of any hazardous substance on the Property.

- There are no relevant provisions in the Agreement that would alter the DNR's analysis.

As long as these conditions are satisfied, the DNR agrees not to hold FedEx Ground Package System Inc. in its capacity as a Licensee under the Agreement responsible for investigating or remediating any hazardous substances or environmental pollution that are present on, or migrated from or onto, the Property prior to the date of the Agreement.

Any determinations made by the DNR in this letter are based specifically on the information made available to the DNR as part of the request and are subject to change if modifications are made to the Agreement or other information arises.

This letter only addresses the Property as described in the attached Agreement. Should FedEx Ground Package System Inc. desire a liability clarification letter for expanded or revised boundaries, a separate request and fee must be submitted to the DNR. This letter was written specifically for FedEx Ground Package System Inc. and is not transferrable to another party. You are reminded that this determination does not relieve you of obligations to comply with all other applicable, federal, state and local laws, regulations, and permits.

ENVIRONMENTAL REQUIREMENTS

The investigative efforts at the Amoco Oil Terminal identified soil, groundwater and LNAPL at the Property. Any activities that may disturb contaminated media at the Property will need to be performed within compliance of Wis. Admin. Code chs. NR 700 to 799.

CLOSING

This letter, site and case-related information and DNR contacts can be found online in the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW); go to dnr.wi.gov and search "BOTW." Use the BRRTS ID # found at the top of this letter. The site can also be found on the map view, Remediation and Redevelopment Sites Map (RRSM) by searching "RRSM."

If you have any questions regarding this letter, please contact me at 608-259-6557 or Jodie.Peotter@wisconsin.gov. You may also contact the DNR Project Manager, John T. Hunt at (715) 701-9383, or johnt.hunt@wisconsin.gov.

Sincerely,



Jodie Peotter
Chief, Brownfields, Outreach and Policy Section
Remediation and Redevelopment Program

September 13, 2021

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Michele Churpak

Lease Liability Clarification Letter, Former Amoco Oil Terminal Site
Superior, WI

Attachment: "License Agreement" between FedEx Ground Package System Inc. ("Licensee") and
Thompson Land Company, LLP ("Licensor")

cc:

Samantha Schmidt, Braun Intertek, saschmidt@braunintertec.com

Jonathan Zimdars, Antea Group, jonathan.zimdars@anteagroup.com

Michael Prager, DNR, Remediation and Redevelopment Program, michael.prager@wisconsin.gov

John Hunt, DNR, Remediation and Redevelopment Program, johnt.hunt@wisconsin.gov

LICENSE AGREEMENT

This License Agreement ("Agreement") is made and entered into as of the later of the dates on which the parties did execute this Agreement by and between **Thompson Land Company, LLP**, Wisconsin limited partnership hereinafter called "Licensor" and **FedEx Ground Package System, Inc.**, a Delaware corporation hereinafter called "Licensee." Licensee and Licensor are sometimes referred to individually as "Party" and collectively as the "Parties". In consideration for the payment by Licensee and the performance of the covenants herein contained, Licensor hereby licenses to Licensee the right to use the real property described below, subject to the following terms and conditions:

1. Licensed Premises: The Licensed Premises consists of the parking area located at 2929 Halvor Lane, Superior, Wisconsin 54880 as further described on **Exhibit "A"** attached hereto and incorporated herein by reference (the "Licensed Premises").
2. The License: Licensor hereby gives Licensee an exclusive right to use (the "License") the Licensed Premises twenty-four hours per day, three hundred sixty-five days per year during the License Term (as defined below) for the purpose described in **Section 4** below.
3. License Fee: (A) Licensee shall pay to Licensor, as consideration for the License, the rate of [REDACTED] per month (the "License Fee") during the License Term. The License Fee shall be paid on or before the first business day of each and every calendar month of the License Term. If Licensee becomes delinquent with respect to the payment of the License Fee by more than five (5) days after receipt of notice thereof from Licensor, Licensee shall pay a late charge of 3% on account of such delinquency and for every delinquency thereafter during the License Term. (B) If the Licensed Premises are rendered unusable in whole or in part, for a period of five (5) consecutive business days, by the making of repairs, replacements, or additions, other than those made with Licensee's consent or caused by misuse or neglect by Licensee or Licensee's agents, servants, visitors, or licensees, Licensee may terminate this Agreement or proportionately reduce the License Fee for any period the Licensed Premises are not useable for Licensee's intended Use.
4. Use of Licensed Premises: This License is personal to Licensee, cannot be assigned or transferred. The Licensed Premises shall be used solely for the purpose of parking/storing not more than approximately 48 personal use vehicles, 58 pickup and delivery vans, 10 tractors, and 29 trailers (the "Vehicles").
5. License Term: The term of the License commences on October 1, 2020 ("Commencement Date") and ends February 28, 2021 ("Expiration Date"). The period of time from the Commencement Date through the Expiration Date is referred to herein as the "License Term". This License is immediately terminable by either party if any governmental authority determines that Licensee's use of the Licensed Premises is impermissible.
6. Notices: All notices to be given under this Agreement shall be in writing and either: sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States

mail; or sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with this courier; or by fax or similar means, if a copy of the notice is also sent by United States Certified Mail, in which case notice shall be deemed delivered on transmittal by telecopier or other similar means provided that a transmission report is generated reflecting the accurate transmission of the notices, as follows:

Notices to Licensor shall be addressed as follows:

Licensor: Thompson Land Company, LLP
2904 Winter Street
Superior, Wisconsin 54880
ATTN: Jay Thompson

Notices to Licensee shall be addressed as follows:

Licensee: FEDEX GROUND PACKAGE SYSTEM, INC.

Attention: Real Estate Department
1000 FedEx Drive
Moon Township, PA 15108
Tel: (412) 269-1000
Fax: (412) 859-2655
Station # 0558

7. General Restrictions and Maintenance: No storage of hazardous materials shall be allowed on the Licensed Premises. Licensee shall at all times keep the Licensed Premises in good order and condition, clean, and free from rubbish, public nuisances, weeds, brush, flammable materials, growth, debris and waste. Licensee shall be responsible for snow plowing and landscape maintenance.
8. Alterations: Licensee shall not make or allow to be made any alterations of the Licensed Premises without the prior written consent of licensor in each instance.
9. Environmental Compliance:
 - (A) Licensee shall not engage in, nor shall it permit any third party to engage in, activities upon the Licensed Premises, or any portion thereof, for the purpose of or anyway involving the handling, manufacturing, treatment, storage, use, transportation except in compliance with all applicable laws, spillage, leakage, dumping, discharge or disposal (whether legal or illegal, accidental or intentional) of any hazardous or toxic substances, materials or wastes, or any wastes regulated under any local, state or federal law. Licensee agrees to indemnify Licensor pursuant to the provisions of **Section 11** hereof against any Losses incurred by Licensee arising out of any toxic or hazardous condition created by Licensee on the Premises or out of any Hazardous Substances brought onto the Premises by Licensee, its employees or business invitees
 - (B) Licensor, to the best of Licensor's knowledge, represents for the benefit of Licensee that, except for such environmental matters described under the following Wisconsin Bureau for Remediation and Redevelopment Tracing System (“BRRTS”) numbers: BRRTS #02-16-000331, BRRTS #02-16-117873, and BRRTS #02-16-

297979 (collectively, the "BRRTS Matters"), the Premises does not now contain any material classified as toxic or hazardous under applicable federal, state and local laws, ordinances and requirements of governmental authorities with competent jurisdiction (collectively, a "Hazardous Substance"). If, other than the BRRTS Matters, a toxic or hazardous condition is discovered on the Premises, to the extent the condition existed prior to Licensee's possession of the Licensed Premises, then (i) Licensor shall: (a) promptly give Licensee written notice of such condition; and (b) promptly cause such toxic or hazardous condition to be cleaned up and brought into compliance with applicable laws, ordinances and requirements of governmental authorities with competent jurisdiction; and, (ii) Licensor agrees to indemnify Licensee pursuant to the provisions of **Section 11** hereof against any Losses as defined therein incurred by Licensee arising out of any such toxic or hazardous condition.

10. Compliance with Law: Licensee shall comply with all laws, ordinances, codes, zoning ordinances, and regulations of any federal, state, local or other public body or agency exercising jurisdiction over Licensee's use of the Licensed Premises. Licensee shall use the Licensed Premises and any improvements according to zoning, and other standards. Licensee shall notify Licensor immediately of any non-compliance with any laws, ordinances, codes, zoning ordinances, and regulations of any federal, state, local or other public body or agency exercising jurisdiction over the Licensed Premises. Licensee shall further indemnify and hold harmless Licensor from any claim, loss, damage or injury, including any fines or penalties assessed by any agency, body or court, resulting from any violation of such standards in connection with Licensee's use of the Licensed Premises and improvements, whether such claim, loss, damage or injury arises in whole or in part from the negligence or intentional acts of Licensee. Licensee shall, at its cost, undertake to respond to all such claims.
11. Mutual Indemnification: Each party (the "Indemnitor") agrees to indemnify, defend and hold the other party (the "Indemnitee") harmless from and against any and all losses, damages, claims, suits, actions, judgments, liabilities and expenses, including, without limitation, environmental damages and remediation expenses, reasonable attorneys' fees (collectively, "Losses"), arising out of, or with respect to: (A) any breach of any warranty or representation or any covenant or agreement of the Indemnitor under this License; or (B) any injury to, or death of, persons and/or any damage to, or destruction of, property, on or about the Licensed Premises and attributable to the negligence or misconduct of the Indemnitor, or its officers, employees, agents, contractors or invitees, except to the extent any such breach, any injury or death or any damage or destruction is attributable to the negligence or misconduct of the Indemnitee, or any of its officers, employees, agents, contractors or invitees, or as otherwise specifically provided in this License; provided, however, that the indemnification obligation created by this Section shall be expressly conditioned upon the Indemnitee (i) delivering to the Indemnitor prompt notice of any event giving rise to such indemnification obligation and (ii) providing the Indemnitor the opportunity to defend itself from and against any Losses. This indemnification shall survive the expiration or earlier termination of this License.

12. Liability Insurance: Licensee shall, at its own expense, secure and maintain in effect during the License Term insurance coverages as described herein, in amounts not less than the minimum limits specified, to protect Licensor and Licensee from claims or liabilities in any way arising out of the use of the Licensed Premises: (A) Workers' Compensation Insurance and Employer's Liability Insurance in accordance with statutory requirements and limits, (B) Comprehensive General Liability insurance and contractual liability coverage for liability assumed by Licensee under this License, and automobile liability insurance, with limits of not less than \$1,000,000.00 each occurrence for bodily injury and property damage combined. Such liability insurance shall name Licensor as additional insured, shall contain severability of interest or cross liability clause and shall be primary for all purposes. Certificates of insurance evidencing the coverages and provisions required in (A) and (B) above shall be furnished to Licensor prior to any use of the Licensed Premises by Licensee.
13. Licensee Default; Licensor Remedies: There shall be a default under this Agreement if: (A) proceedings are commenced against the Licensee in any court under a bankruptcy act or for the appointment of a trustee or receiver of the Licensee's property either before or after the commencement of the License Term; (B) there shall be a default in the payment of the License Fee and payment has not been made within five (5) days after receipt of notice from Licensor; (C) if there shall be default in the performance of any other covenant, condition, rule, or regulation herein contained or hereafter established on the part of the Licensee or Licensor respectively, for more than fifteen (15) days after written notice of such default from either Licensee or Licensor, as the case may be. The foregoing notwithstanding, if the defaulting Party shall exercise in good faith diligent efforts within such fifteen (15) day period to cure the failure specified in the notice, but shall not be able to do so because of acts of God, riots, or labor strikes, then any such failure shall not be considered a default of this Agreement so long as such Party shall continue to exercise in good faith such diligent efforts to cure such failure and shall do so within a reasonable period of time. Upon the event of an uncured default, either Party may terminate this Agreement, Licensor shall have the right to reenter or repossess the Licensed Premises, and dispossess or remove therefrom the Licensee, or other occupants thereof, and their effects, without being liable to any prosecution therefore. Licensee shall be responsible for paying the License Fee until the expiration or earlier termination of this Agreement. The Licensee waives and will waive all right to trial by jury in any summary proceeding hereafter instituted by the Licensor against the Licensee in respect to the licensed property.
14. No Waiver: Licensor's waiver of any one or more of the covenants, conditions, or agreements of this License shall not be construed to be a waiver of any subsequent or other breach of the same or any other covenant, condition, or agreement of this License. Licensor's failure to require or exact full or complete compliance with any of the covenants, conditions, or agreements of this License shall not be construed as changing the terms hereof, and such failure shall not preclude Licensor from enforcing the full provisions hereof. The terms of this License shall be amended only in writing and signed by Licensor and Licensee.

15. Condition of Premises at Possession: Licensor is licensing the Licensed Premises to Licensee in its existing “as is” condition as of the commencement date indicated above in **Section 5**.
16. Condition of Premises - End of Term: Upon termination or revocation of this License, Licensee shall surrender the Licensed Premises to Licensor in its condition at the commencement of this Agreement. If, within ten (10) days after the expiration or earlier termination of this Agreement, Licensee has failed to remove its property and/or return the Licensed Premises to its original condition, ordinary wear and tear excepted, Licensor may, at its option, remove Licensee's property and restore the Licensed Premises to its original condition at the cost of Licensee.
17. Governing Law: This License shall be governed by and construed in accordance with the laws of the state in which the Licensed Premises is located. By execution and delivery of this Agreement, each of the Parties hereby accepts and submits to the jurisdiction of said courts in connection with any such action or proceeding.
18. Severability: If any part, section or provision of this Agreement should be declared invalid, then all the remaining parts, sections and provisions shall continue in full force and effect.
19. Anti-Corruption and Export Laws: Licensor and Licensee warrant that they and their affiliates and subsidiaries, including their respective directors, officers, employees, and other persons acting on behalf of any of the foregoing will: (a) conduct business in compliance with all applicable customs, export and import laws and regulations, including, but not limited to, the U.S. Department of State International Traffic in Arms Regulations, the U.S. Department of Treasury Foreign Assets Control Regulations, U.S. laws relating to unsanctioned foreign boycotts and all other applicable economic sanctions, anti-terrorism, anti-money laundering and related laws and regulations; (b) not import, export or re-export commodities, software, technology, technical data or services in contravention of any applicable law or regulation; (c) comply with all laws of the United States of America and any other applicable anti-corruption laws, and shall refrain from any conduct that would cause the Parties to be in violation of any applicable anti-corruption laws, including, but not limited to, the U.S. Foreign Corrupt Practices Act and the UK Bribery Act of 2010; and (d) maintain a compliance program intended to prevent corruption and bribery within its supply chain and, in connection with this Agreement, the Parties will ensure that nothing of value will be paid or promised by the Parties to any third party for purposes of influencing a decision, inducing a decision or securing any improper advantage.
20. Miscellaneous:
 - A. The terms, provisions and covenants and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the Parties hereto and upon their respective heirs, legal representatives, successors and permitted assigns, except as otherwise herein expressly provided.
 - B. This Agreement may not be altered, changed or amended except by an instrument in writing signed by both parties hereto.

C. The terms of this Agreement shall remain confidential between the Parties, except for disclosures required in the ordinary course of business. Without Licensee's prior written consent in each instance, Licensor shall not use Licensee's name or logotype in any manner associated with Licensor or the Licensed Premises, and will not issue any press release or other information pertaining to this Agreement or the Licensee.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the later of the dates on which the Parties did execute this Agreement.

Thompson Land Company, LLP

FedEx Ground Package System, Inc.

By:  _____

By:  _____

Name: Jay Thompson

Name: Jason Pavuk

Title: Chief Executive Officer

Title: Manager, Lease Administration

Date: 09/15/2020

Date: 9/14/2020

FXG LEGAL APPROVAL

Bob Conrie 9/11/2020

EXHIBIT A



SECOND AMENDMENT TO LICENSE AGREEMENT

THIS SECOND AMENDMENT TO LICENSE AGREEMENT (this "Amendment") is made as of March 31, 2021 (the "Effective Date") between THOMPSON LAND COMPANY, LLP, a Wisconsin limited liability partnership (the "Licensor"), and FEDEX GROUND PACKAGE SYSTEM, INC., a Delaware corporation, (the "Licensee").

WITNESSETH:

WHEREAS, Licensor and Licensee entered into a certain License Agreement, dated as of September 15, 2020, as amended by that certain First Amendment to License effective as of February 27, 2021, for the Licensed Premises located at 2929 Halvor Lane, Superior, Wisconsin 54880 (collectively, the "License"); and

WHEREAS, the Term of the License is currently scheduled to expire on March 31, 2021; and

WHEREAS, Licensor and Licensee desire to extend the Term as set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, Licensor and Licensee do hereby agree to the following amendments to the Agreement:

1. All capitalized terms used herein are as defined in the License unless otherwise defined in this Amendment. The Recitals set forth above are incorporated herein by reference.
2. Section 5 (License Term) of the License is amended to change the Expiration Date to "October 31, 2021."
3. During the License Term, Licensor shall submit the Phase I Environmental Site Assessment to Wisconsin Department of Natural Resources ("WDNR") to seek a General Liability Clarification Letter concerning the environmental liabilities at the Licensed Premises. In the event the soil on the Licensed Premises is to be disturbed and reused, then Licensor shall prepare and follow a soil / materials management plan in accordance with WDNR requirements.
4. The terms and provisions of the License shall remain confidential between the parties, and Licensor shall not use Licensee's name or logotype and will not issue and press release or other information pertaining to the License or the Licensee without Licensee's prior written consent in each instance.

5. Except as herein stated, the License shall remain in full force and effect as originally stated and is hereby ratified and confirmed. In the event of any conflict between the terms of the License and this Amendment, the terms of this Amendment shall prevail.
6. This Amendment may be executed in multiple counterparts, all of which shall constitute a single agreement and the signature and acknowledgement pages may be removed from any counterpart and appended to any other counterpart. This Amendment may be executed via facsimile (including Pdf) and electronic signature.

[Signature Page(s) Follows]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by each of their respective authorized representatives effective as of the Effective Date set forth above.

LICENSOR
THOMPSON LAND COMPANY, LLP

By:  _____

Name: Jay Thompson
Title: President

LICENSEE
FEDEX GROUND PACKAGE SYSTEM, INC.

By:  _____

Name: Jason Pavuk
Title: Manager, Lease Administration