

1 THOMAS J. MORAN, ESQ. (SBN 278940)
2 FEDERAL EXPRESS CORPORATION
3 2601 Main Street, Suite 340
4 Irvine, California 92614
5 Telephone: (949) 862-4625
6 Facsimile: (901) 492-5641
7 E-mail: thomas.moran@fedex.com

8 Attorney for Defendant,
9 FEDERAL EXPRESS CORPORATION

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

FEDERAL EXPRESS CORPORATION

Plaintiff,

v.

CHANJE ENERGY, INC., a corporation;
and DOES 1 through 20, inclusive,

Defendants.

Case No.: 21STCV26121

COMPLAINT FOR:

- (1) BREACH OF CONTRACT;**
- (2) DECLARATORY RELIEF**

[DEMAND FOR JURY TRIAL]

Plaintiff Federal Express Corporation (“FedEx”) brings this action against Defendant Chanje Energy, Inc. (“Chanje”) and alleges as follows:

PARTIES

1. Plaintiff, FedEx, is a corporation duly organized and existing under the laws of Delaware with its principal place of business in Memphis, Shelby County, Tennessee.
2. FedEx is informed and believes, and on that basis alleges, that Defendant Chanje is a corporation organized under the laws of Delaware. Chanje holds itself out as a general contractor and energy infrastructure contractor with its principal place of business located in Hawthorne, County of Los Angeles, California.
3. FedEx is without information and knowledge at this time concerning the true names and capacities of the defendants named herein as Does 1 through 20, inclusive. Therefore, FedEx

1 sues these defendants by such fictitious names. FedEx is informed and believes and based thereon
2 alleges that each fictitiously named defendant was and is in some manner legally responsible for the
3 events, breaches, injuries and damages alleged in this Complaint.

4 4. Defendants, and each of them, acted as the agent, partner, joint venturer, servant
5 and/or employee of each of the remaining defendants in performing the actions alleged in this
6 Complaint and, in performing such actions, were acting within the scope of such agency and
7 employment.

8 **JURISDICTION AND VENUE**

9 5. Venue is proper in this judicial district pursuant to California Code of Civil Procedure
10 § 395(a). The subject contract was entered into, and substantial actions relating to this dispute took
11 place in, Los Angeles County, California, giving this court subject matter jurisdiction over this
12 dispute and personal jurisdiction over Defendants.

13 **FACTUAL ALLEGATIONS**

14 6. On October 31, 2019, FedEx and Chanje executed a contract titled “Construction
15 Agreement” (“the Agreement”). Pursuant to the terms of the Agreement, Chanje agreed to act as
16 contractor for a project involving the installation of chargers for electric vehicles at FedEx facilities
17 located in California, including in Los Angeles county (“the Project”). A copy of the Agreement is
18 attached as Exhibit A.

19 7. Under section 1.02 of the Agreement, Chanje agreed to “furnish efficient business
20 administration and construction management and [to] use every reasonable effort, and do all things
21 necessary, to perform the Work in an expeditious and economical manner consistent with good
22 workmanship and quality, sound business practice and FedEx’s best interests.”

23 8. Under section 4.04 of the Agreement, Chanje agreed that upon every submission of
24 an Application for Payment it affirmatively represented that all work for which Chanje had received
25 payment from FedEx was clear of all liens, claims, security interests, or other encumbrances.

26 9. Under section 8.03 of the Agreement, Chanje was allowed to hire subcontractors to
27 assist with its completion of the Project. Under Section 8.02 of the Agreement, Chanje had an
28 independent obligation to fully pay these subcontractors. FedEx reserved the right, however, to pay

1 any subcontractor of Chanje if FedEx determined that Chanje failed to pay the subcontractor without
2 reasonable cause.

3 10. Under section 8.03 of the Agreement, Chanje agreed not to permit any laborer's,
4 materialman's, mechanic's or other similar liens to be filed or otherwise imposed on certain property
5 subject to the Agreement in which FedEx maintained a legal interest. If such a lien was filed, Chanje
6 agreed to cause the lien to be released within twenty-five (25) days after receiving notice of the
7 filing or imposition of the lien.

8 11. Under section 18.01 of the Agreement, Chanje warranted that title to all the work
9 done, including materials, would pass to FedEx upon substantial completion of the Project free and
10 clear of all liens, claims, security interests or encumbrances.

11 12. Under section 22.01 of the Agreement, Chanje agreed to indemnify FedEx against all
12 liabilities, damages, claims, suits or judgments related to, among other things, Chanje's failure to
13 perform of its obligations under the Agreement and specifically failure to pay subcontractors. Chanje
14 also agreed to provide FedEx prompt written notice of the initiation of any action in which the
15 indemnity may apply.

16 13. Under section 25.01 of the Agreement, FedEx retained the right to terminate the
17 Agreement under certain conditions.

18 14. Section 26.01 of the Agreement provides an alternate dispute resolution procedure for
19 contract disputes. The procedure entails notice being provided to project managers, meetings with
20 project managers, escalation to executives above project managers if the project managers are
21 unsuccessful at resolving the dispute.

22 15. Section 26(h) of the Agreement provides for the recovery of reasonable costs and
23 expenses, including attorney's fees, to the prevailing party.

24 16. Section 28.05 of the Agreement provides that any lawsuit to enforce the Agreement
25 be filed in an appropriate court in Los Angeles County. Under section 28.01, both parties consent to
26 the jurisdiction of the court.

27 17. On February 19, 2021, FedEx was notified by a Chanje subcontractor that Chanje
28 was late in paying the subcontractor. On February 22, FedEx learned that a subcontractor had

1 threatened to file a mechanic's lien on certain property leased by FedEx due to Chanje's failure to
2 pay the subcontractor as contracted. At this time, FedEx was current on its payments to Chanje from
3 which Chanje was required to promptly pay the subcontractors.

4 18. Throughout the remainder of February, all of March, and all of April 2021, FedEx
5 was informed by Chanje subcontractors of non-payment by Chanje in violation of the terms of the
6 Agreement.

7 19. Throughout this time FedEx notified and advised Chanje of the non-payment claims
8 and demanded that Chanje remedy the situation and pay the subcontractors as required under the
9 Agreement.

10 20. Between June 1, 2021 and June 17, 2021, FedEx received four (4) lien notices from
11 subcontractors on properties leased by FedEx. FedEx received no advance notice of these lien
12 notices from Chanje.

13 21. The total of the liens placed between June 1, 2021 and June 17, 2021 on properties
14 FedEx leased was four. The continued existence of the liens threatened FedEx's rights to continue
15 leasing these properties.

16 22. FedEx's attempts to get Chanje to satisfy its outstanding indebtedness to the
17 subcontractors or to otherwise release the properties from the liens were unsuccessful. On June 1,
18 2021, FedEx learned that Chanje had fired all its employees, including its project managers.

19 23. Chanje's firing of its employees frustrated the purpose of section 26.01 of the
20 Agreement, rendering strict compliance with that section impossible. Chanje's actions in this regard
21 excused FedEx's performance with section 26.01 and waived any right of Chanje to rely upon 26.01.

22 24. On May 13, 2021, FedEx sent Chanje a Notice of Default of the Agreement pursuant
23 to section 25.01. Due to a change in Chanje's corporate offices, FedEx sent a second Notice of
24 Default on May 20, 2021. Chanje received the second Notice of Default on May 21, 2021. A copy of
25 these Notices of Default are attached as Exhibits B and C.

26 25. On June 14, 2021, FedEx sent Chanje a Notice of Termination, a copy of which is
27 attached as Exhibit D.
28

- 1 (e) failing to promptly notify FedEx of the imposition of the liens referenced in
2 27(d) and failing to promptly accomplish the removal of those liens;
- 3 (f) breaching its warranty to pass title to all work to FedEx free of all liens, claims,
4 security interests or encumbrances;
- 5 (g) failing to defend, indemnify, and hold FedEx harmless against all liabilities,
6 damages, claims, suits or judgments related to, among other things, Chanje's
7 failure to perform of its obligations under the Agreement and specifically
8 failure to pay subcontractors; and
- 9 (h) failing to provide FedEx prompt written notice of the initiation of any action in
10 which the indemnity obligations may apply.

11 31. FedEx is informed and believes that Chanje breached the Agreement by other acts
12 and omissions of which it is unaware. FedEx will amend this complaint, if and when necessary, to
13 allege such breaches with greater specificity.

14 32. Chanje's breaches of the Agreement were a substantial factor in causing FedEx to
15 sustain damages in a total amount not yet ascertained but in an amount believed to be in excess of
16 \$3,750,000.00.

17 **SECOND CAUSE OF ACTION**

18 (For Declaratory Relief Against All Defendants)

19 33. FedEx hereby realleges and incorporates by reference all allegations heretofore pled
20 in paragraphs 1-32 of the Complaint as if separately pled.

21 34. An actual controversy exists between FedEx and Defendants, and each of them, in
22 that FedEx contends that Defendants are obligated, both as a matter of equity and as required under
23 the Agreement, to defend, indemnify, and hold FedEx harmless against all liens asserted or to be
24 asserted by Chanje subcontractors, suppliers and/or laborers against the FedEx properties. FedEx
25 alleges that Defendants, and each of them, make contentions to the contrary.

26 35. Plaintiff requests a judicial declaration Defendants are obligated to defend,
27 indemnify, and hold FedEx harmless against all liens asserted or to be asserted by Chanje
28 subcontractors, suppliers and/or laborers against the FedEx properties.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAAYER

WHEREFORE, FedEx prays for judgment against Defendants, and each of them, as follows:

1. For general and special damages in an amount according to proof;
2. For a judicial determination that Defendants are obligated to defend, indemnify, and hold FedEx harmless against all liens asserted or to be asserted by Chanje subcontractors, suppliers and/or laborers against the FedEx properties;
3. For attorney fees and costs of suit incurred herein;
4. For prejudgment interest at the maximum rate permitted by law;
5. For such further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Thomas J. Moran
Thomas J. Moran
Attorney for Defendant
FEDERAL EXPRESS CORPORATION

EXHIBIT A

FEDERAL EXPRESS CORPORATION
STANDARD FORM
CONSTRUCTION AGREEMENT
FOR REPAIRS, ALTERATIONS AND IMPROVEMENTS
TO EXISTING STRUCTURES

CONSTRUCTION AGREEMENT

between

FEDERAL EXPRESS CORPORATION
("FedEx")

and

CHANJE ENERGY, INC.
("Contractor")

Table of Contents

<u>TERMS & CONDITIONS</u>	<u>ARTICLE</u>
Scope of Services	1
Contract Documents.....	2
Order of Completion.....	3
Payment.....	4
Equipment and Materials	5
“As-Built” Drawings and Data	6
Subcontractors.....	7
Payment to Subcontractors	8
Changes.....	9
Contractor's Understanding.....	10
FedEx's Representative	11
Supervision of the Work; Safety and Security.....	12
Permits, Licenses, Laws and Regulations.....	13
Taxes	14
Shop Drawings and Samples; Material Testing.....	15
FedEx's Right to Audit.....	16
Separate Contracts	17
Contractor's Warranties.....	18
FedEx's Right to Do Work.....	19
Insurance	20
Bonds	21
Indemnification	22
Intentionally Omitted	23
Compliance with Laws	24
Default; FedEx's Right to Terminate	25
Alternate Dispute Resolution.....	26
Intentionally Omitted	27
Miscellaneous	28

Contract No. 19-0811-000

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT ("Agreement") is made as of the ____ day of _____, 2019 (the "Effective Date"), between FEDERAL EXPRESS CORPORATION, a Delaware corporation ("FedEx") and CHANJE ENERGY, INC., _____ corporation ("Contractor").

RECITALS

1. FedEx intends to install electric charging stations for electric vehicles at FedEx's facilities located in California (the "Project"). The attached Exhibit A sets forth FedEx's facility identifier and the address for each of those facilities (individually called a "Site" and collectively called the "Sites"). The installation to be performed at any Site is called a "Task" in this Agreement.

2. FedEx leases the Sites by means of instruments, each of which is called a "Lease" in this Agreement. The landlord from whom FedEx leases a Site is called a "Landlord" in this Agreement. If the entry for a location appearing on Exhibit A appears in red (each such location being called a "Special Restriction Site"), title to that Special Restriction Site is held by a governmental or quasi-governmental authority. If FedEx leases a Special Restriction Site directly from such a governmental or quasi-governmental authority, the term "Landlord", as used in this Agreement, means that governmental or quasi-governmental authority and its successors and assigns and the term "Lease", as used in this Agreement, means the instrument by which FedEx's interest in the Special Restriction Site arises and all subsequent amendments and renewals of that instrument. If FedEx subleases a Special Restriction Site from a person or entity to whom such a governmental or quasi-governmental authority directly or indirectly leases the Special Restriction Site, the term "Landlord", as used in this Agreement, means collectively that governmental or quasi-governmental authority and all parties that have a leasehold or subleasehold estate in the Special Restriction Site that is superior to that of FedEx and their respective successors and assigns and the term "Lease", as used in this Agreement, means collectively the instruments by which the interests of FedEx and the parties holding superior leasehold or subleasehold estates in the Special Restriction Site respectively arise and all subsequent amendments and renewals of those instruments.

3. FedEx desires the services of a contractor to organize, coordinate and direct the Project.

4. Contractor desires to enter into this Agreement as an independent contractor and is ready, willing and able to provide the services and to perform the work required in connection with the Project in accordance with the terms and subject to the conditions of this Agreement.

FOR AND IN CONSIDERATION of the mutual covenants contained in this Agreement, FedEx and Contractor (the "Parties") agree as follows:

ARTICLE 1
SCOPE OF SERVICES

Section 1.01. Scope of Services. Subject to and in accordance with the terms of this Agreement, Contractor shall undertake the Project for FedEx on the Sites. The Project is described in detail or is reasonably inferable from the Plans and Specifications, as defined below. Unless otherwise provided in the Contract Documents, Contractor shall provide and furnish all materials, supplies, apparatus, appliances, equipment, fixtures, tools, implements and other facilities (the "**Materials**") and all labor, management, supervision, construction scheduling, procurement scheduling, contract administration, accounting, project documentation and reporting, quality control and safety programming, financing, transportation, utilities, storage, testing, construction site security and other services (the "**Services**") as and when required in connection with the foregoing undertaking. When used in this Agreement, the term "**Work**" means the furnishing of the Materials and Services. "**Plans and Specifications**" means the drawings, specifications, photographs and related materials that FedEx has furnished to Contractor and that depict and describe the Work to be performed at each Site and to render each Site fully operational following its renovation.

Section 1.02. Nature of Relationship. Although the relationship of Contractor to FedEx is that of an independent contractor, the parties recognize the relationship of mutual trust and confidence established by this Agreement, and Contractor shall furnish its best skill and judgment and shall cooperate with FedEx's consultants and other contractors in furthering FedEx's interests. Subject to the express limitations contained in the Contract Documents, Contractor shall furnish efficient business administration and construction management and shall use every reasonable effort, and do all things necessary, to perform the Work in an expeditious and economical manner consistent with good workmanship and quality, sound business practice and FedEx's best interests.

ARTICLE 2
CONTRACT DOCUMENTS

Section 2.01. Definition. The "**Contract Documents**" include this Agreement, the Plans and Specifications, all Addenda issued prior to execution of this Agreement, if any, and all exhibits or modifications to any of them. As used in this Agreement, a "**modification**" is:

- (i) a written amendment to this Agreement signed by FedEx and Contractor;
- (ii) a Change Order, as defined in this Agreement;
- (iii) a Construction Change Directive, as defined in this Agreement; or
- (iv) a written response to Contractor's written request for information issued by FedEx.

Section 2.02. Intent of Contract Documents. The parties expect the Contract Documents to set forth all materials, appliances, labor and services of every kind necessary for the full and proper execution of the Work and the terms and conditions of payment for the Work. If, however, the Contract Documents do not describe in complete detail all items reasonably required to complete the Work, Contractor nevertheless has the obligation to furnish all items reasonably required to complete the Work with no increase in the Contractor's Fee, as defined in Section 4.01 below, except as otherwise allowed under the Contract Documents. The parties consider the Contract Documents to be one document and, subject to the provisions of Section 2.04, whatever is called for by any one of the Contract Documents will be as binding as if called for by all.

Section 2.03. Errors in Contract Documents. Contractor has closely reviewed the Contract Documents, is not aware of any material defect or error in the Contract Documents, and reasonably believes the Contract Documents to be complete, accurate, consistent, coordinated, and adequate for bidding, costing, pricing and performing the Work. Accordingly, Contractor represents to FedEx that, to Contractor's knowledge, Contractor will be able to perform the Work in accordance with the requirements of the Contract Documents. If Contractor finds any error, discrepancy or variance in the Contract Documents, or if Contractor becomes aware that any portion of the Work violates, or will violate when performed, any law, ordinance, code, regulation, rule, or other legal requirement (singly, a "**Legal Requirement**" and collectively, "**Legal Requirements**"), it shall notify FedEx before beginning the affected portion of the Work and FedEx will make any correction, interpretation or clarification promptly, basing its decision on the intent of the Contract Documents. If, without having provided that notification, Contractor performs any part of the Work that Contractor knew or should have known upon reasonable inspection an error, discrepancy or conflict in the Contract Documents affected, Contractor shall make at its expense any change in the Work necessary to correct such error, discrepancy, or conflict in the Contract Documents affected. The Parties will resolve any dispute that arises under this Section 2.03 in accordance with the procedures set forth in Article 26 and, if necessary, by means of appropriate judicial action.

Section 2.04. Conflicts. If a conflict occurs between this Agreement and any other Contract Document, this Agreement will prevail. The most recently issued and approved Contract Document will take precedence over previous issues of the same Contract Document. If any conflict or inconsistency occurs among the Contract Documents, the parties will interpret the Contract Documents in accordance with the following order of priority:

- (a) written modifications, addenda, amendments and qualifications and clarifications to this Agreement made after the Effective Date will prevail over
- (b) the remaining portions of this Agreement (exclusive of the Plans and Specifications), which will prevail over
- (c) the Plans applicable to a Site, which will prevail over
- (d) the Specifications applicable to that Site.

In the case of the Plans, written dimensions will prevail over scaled dimensions and larger scale sections and details will prevail over smaller scale sections and details. FedEx will resolve any conflict between or among qualities of Materials.

ARTICLE 3
ORDER OF COMPLETION

Section 3.01. Commencement. Contractor shall commence the Work as directed in FedEx's written Notice to Proceed as to each Task in the form of the attached **Exhibit B**.

Section 3.02. Substantial Completion Deadline and Date. For purposes of this Agreement, the term "**Substantial Completion Deadline**", in the case of each Task, means the expiration, following the date on which construction activity as to a Task on a Site begins following Contractor's receipt of a Notice to Proceed from FedEx, of the number of work days established for the conduct of construction activity on that Site as set forth in the column labeled "Number of Work Days Permitted for On-Site Construction Absent Excused Delays" in the attached **Exhibit A**. Once Contractor begins actual construction activity at a Site in connection with a Task, Contractor must diligently pursue the completion of the Task on that Site to its conclusion. "**Substantial Completion**" as to a Task at a particular Site is that stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that FedEx can occupy or utilize the Work for its intended purpose. When FedEx determines that the Task or designated portion thereof is substantially complete, FedEx will issue to Contractor a written notice of substantial completion which shall establish therein the date of Substantial Completion (the "**Substantial Completion Date**").

Section 3.03. Extension of Substantial Completion Deadline. (a) Time is of the essence and extensions of a Substantial Completion Deadline will occur only as permitted in this Section 3.03. Contractor may receive an extension of a Substantial Completion Deadline equal to the duration of any delay (an "**Excusable Delay**") that actually occurs with respect to the affected portion of the Task by reason of any of the following:

- (i) an Act of God which creates a hazardous or unsafe work environment at the affected Site;
- (ii) a casualty (including, without limitation, earthquakes, floods, mudslides, fires, hurricanes and tornadoes, but excluding other forms of inclement weather);
- (iii) war, national emergency or other similar occurrence;
- (iv) strikes, lock-outs, or unavailability of Materials or public utility service;
- (v) concealed physical conditions that differ materially from those indicated in the Contract Documents or unknown physical conditions of an unusual nature that differ materially from those

ordinarily found to exist and generally recognized as inherent in construction activities similar to the Work;

- (vi) interference by a Separate Contractor (as defined in Article 17) with Contractor's performance of the Work, a Separate Contractor's failure to conform to Contractor's reasonable directions related or pertaining to the progress of the Work, or a Separate Contractor's use of labor, material or equipment that disrupts Contractor's performance of the Work;
- (vii) FedEx's default in the performance of any of its obligations under this Agreement; or
- (viii) FedEx's suspension or interruption of the Work without cause.

FedEx's exercise of its rights either to suspend a Task if Contractor defaults in the performance of any of its obligations or to require the correction of any non-conforming Work will not constitute the basis for an Excusable Delay and justify an extension of a Substantial Completion Deadline. Any delay other than an Excusable Delay will constitute an "**Unexcused Delay**".

(b) In order to obtain an extension of a Substantial Completion Deadline necessitated by an Excusable Delay, Contractor must provide to FedEx written notice of claim within five (5) business days after the beginning of the Excusable Delay and make a written claim to FedEx in each instance within ten (10) business days after the beginning of the Excusable Delay. If Contractor fails to make a timely claim for an extension in accordance with the foregoing, Contractor waives its right, if any, to such extension. In the case of a delay of the nature described in division (v) of Section 3.03(a) and in the absence of exigent circumstances creating an unsafe work environment, Contractor must provide written notice of claim to FedEx before it disturbs the conditions giving rise to that claim and must afford FedEx an opportunity to examine the conditions in their undisturbed state. Contractor must accompany its written claim with a detailed estimate of the effect that the claimed delay will have on the time required to substantially complete the Task. Within ten (10) business days after receipt of Contractor's written claim, FedEx shall render a good faith written decision granting, rejecting or modifying the Contractor's claim. FedEx's failure to render a decision on Contractor's claim within the time set forth above will constitute a denial of the claim. Notwithstanding FedEx's granting of Contractor's claim for an extension, Contractor must take reasonable steps to limit the duration of the Excusable Delay that gave rise to its claim. FedEx's granting of Contractor's claim for an extension will not impair any right to terminate this Agreement, or to exercise any other remedy, that FedEx has elsewhere in this Agreement. The parties will resolve any dispute that arises regarding the action FedEx takes with respect to Contractor's claim for any extension of a Substantial Completion Deadline in accordance with the procedures set forth in Article 26 and, if necessary, by means of appropriate judicial action. If, within ten (10) business days after the date on which FedEx's denial of Contractor's claim for an extension occurs, Contractor fails to both give FedEx written notice that it believes FedEx's denial constitutes an acceleration of the time within which Contractor must complete the Task and challenge the reasonableness of FedEx's denial by initiating the dispute resolution procedures set forth in Article 26 and absent reasonable excuse, Contractor waives its

right to any relief to which it otherwise be entitled by virtue of such an alleged acceleration other than an extension of the Substantial Completion Deadline, including, without limitation, relief in the form of an increase in the Contractor's Fee or damages. Moreover, except as specifically provided in Section 3.03, Contractor waives any claim to any relief to which it may otherwise be entitled by virtue of the occurrence of an Excusable Delay other than an extension of the applicable Substantial Completion Deadline in accordance with the foregoing provisions of this Section 3.03, including, without limitation, any claim for an increase in the Contractor's Fee or for damages.

Section 3.04. Circumstances Permitting Increase in Contractor's Fee. If an Excusable Delay of the nature described in (v), (vii), (viii), or (ix) of Section 3.03(a) occurs, Contractor may receive, in addition to an extension of the Substantial Completion Deadline, a reasonable adjustment in the Contractor's Fee (as defined in Section 4.01 below) to reflect the additional costs, if any, that Contractor incurs by virtue of the occurrence of that Excusable Delay. In order to obtain the foregoing, Contractor must make a written claim to FedEx in each instance within ten (10) business days after the beginning of the Excusable Delay and, if Contractor fails to make a timely claim for an adjustment in accordance with the foregoing, Contractor waives its right, if any, to any adjustment in the Contractor's Fee by virtue of the occurrence of an Excusable Delay. Contractor must accompany its claim with a detailed itemization of the additional costs that Contractor and its Subcontractors expect to incur by reason of the occurrence of an Excusable Delay and such additional documents as FedEx may reasonably request to corroborate its itemization. Within ten (10) business days after receipt of Contractor's written claim, FedEx will render a good faith written decision granting, rejecting or modifying Contractor's claim. FedEx may not act unreasonably in rendering its decision. FedEx's failure to render a decision on Contractor's claim within the time set forth above will constitute a denial of the claim. The Parties shall resolve any dispute that arises regarding the action FedEx takes with respect to Contractor's claim for adjustments to the Contractor's Fee in accordance with the procedures set forth in Appendix A and, if necessary, by means of appropriate judicial action.

Section 3.05. Accelerate the Project. (a) With or without the occurrence of a delay in the performance of the Work, FedEx may direct that Contractor accelerate the progress of the Work by means of requiring Contractor and those of its Subcontractors to work overtime, by adding, or causing its Subcontractors to add, additional crews or shifts, or by re-sequencing the Work. Promptly following its receipt of FedEx's written request in which FedEx specifies the portion of the Work that FedEx wishes to accelerate and the time within which FedEx wishes to achieve the Substantial Completion of the Work, Contractor shall provide FedEx with its recommendations for an efficient and economical acceleration of the Work. Contractor's recommendation will include a comparison that Contractor prepares in a format acceptable to FedEx and that shows the progress in the Work that will occur if the acceleration does not occur and the planned progress of the Work that will occur if the acceleration does occur. If FedEx wishes to advance the Substantial Completion Deadline then applicable to any Task, Contractor's recommendation will also include a statement that sets forth in detail, with a suitable breakdown by trades and work classification, the adjustments in the Contractor's Fee that must occur in order for Contractor to be able to meet the degree of progress reflected in FedEx's request. In formulating that statement, Contractor must consider the impact of the labor inefficiency, if any, that will be associated with the acceleration that is under consideration.

(b) If an Unexcused Delay has occurred and FedEx wishes Contractor to accelerate the progress of the Work in order to meet the Substantial Completion Deadline then applicable to any Task, FedEx may direct Contractor to implement its recommendations for the acceleration merely by delivering written notice to Contractor; under those circumstances, Contractor will not be entitled to any adjustment of the Contractor's Fee by reason of the acceleration. FedEx's failure to deliver that notice to Contractor will not release Contractor from liability for damages that FedEx sustains by virtue of Contractor's failure to substantially complete any Task, by the corresponding Substantial Completion Deadline.

(c) If any circumstances other than the occurrence of an Unexcused Delay exist with respect to FedEx's request for Contractor's recommendations regarding acceleration of the progress of the Work, FedEx may direct Contractor to implement its recommendations for acceleration only by means of its execution of a Change Order or a Construction Change Directive in accordance with the procedures set forth in Article 9. Until the parties execute a Change Order, or FedEx executes and delivers a Construction Change Directive, in connection with a proposed acceleration of the progress of the Work, Contractor has neither the obligation nor the authority to proceed with the implementation of its recommendations.

(d) The parties do not intend this Section 3.05 to preclude Contractor from accelerating the progress of the Work on its own initiative when it does so without any expectation that it will be entitled to an adjustment in the Contractor's Fee by virtue of having done so.

Section 3.06. Punch List; Final Commissioning Report. Within ten (10) business days following Substantial Completion of each Task, Contractor shall inspect the Work associated with that Task, and present to FedEx through Procure or another cloud-based construction management platform mutually agreed-upon by the Parties: (i) a list (the "**Punch List**") of items to be accomplished by Contractor to fully complete the Task, in accordance with this Agreement and the Contract Documents and a schedule for such work (the "**Punch List Schedule**"); and (ii) a report on the commissioning of the Task in the form set forth in the attached Exhibit J (the "**Final Commissioning Report**"). FedEx shall execute and return the Final Commissioning Report within five (5) days of Contractor's submission. If FedEx objects to the omission of any item from the Punch List or to the Punch List Schedule, FedEx may notify Contractor of its objections within five (5) business days following the date of its receipt of the Punch List and Punch List Schedule, and Contractor will make such corrections and adjustments to the Punch List and Punch List Schedule as are necessary to reflect and address FedEx's reasonable objections and Contractor shall perform the work required by the corrected Punch List in accordance with the adjusted Punch List Schedule.

Section 3.07. Suspension of the Work. With or without cause, FedEx may order Contractor in writing to suspend, delay or interrupt any part of the Work for such period of time as FedEx elects.

Section 3.08. Progress Reports. No later than 4:00 p.m. (Memphis, Tennessee local time) on each Friday (or the preceding business day if a Friday is a Legal Holiday) between the Effective Date and Final Acceptance (as defined in Section 4.09 below) of the last of the Tasks that

Contractor completes in accordance with the terms of this Agreement, Contractor shall submit a project management report to FedEx's Representative in the form set forth in the attached **Exhibit I** through Procore or another cloud-based construction management platform mutually agreed-upon by the Parties.

ARTICLE 4 PAYMENT

Section 4.01. Contractor's Fee/Task Fee. (a) As full consideration for Contractor's performance of the Work in accordance with the terms of this Agreement and the other Contract Documents, FedEx shall pay to Contractor a "**Contractor's Fee**" in the amount of Twenty-Seven Million One Hundred Thirty-Two Thousand and Thirty-One Dollars (\$27,132,031). The parties have allocated the Contractor's Fee among the Sites as reflected in the attached **Exhibit A** (the portion of the Contractor's Fee allocated to a Site is further particularized therein as a "**Task Fee**"). FedEx shall pay the Contractor's Fee and each Task Fee in accordance with the payment procedure described in **Exhibit C-1**.

(b) The Contractor's Fee, as adjusted by Change Orders executed in accordance with the terms of this Agreement and by the procedures set forth in Article 26 and, if necessary, by means of appropriate judicial action following FedEx's execution and delivery of Construction Change Directives, is inclusive of all remuneration that FedEx must pay Contractor in connection with the Work and the performance of the obligations Contractor undertakes under the terms of this Agreement, including, without limitation, Contractor's obligation to pay Transaction Taxes in accordance with the terms of Section 14.01 below

Section 4.02. Allowances. The Contractor's Fee includes all allowances (individually, an "**Allowance**" and collectively, the "**Allowances**") set forth in the Contract Documents. An Allowance will cover the cost of the Materials delivered and unloaded at the Site and all applicable Transaction Taxes. The costs Contractor incurs in connection with the handling of an Allowance item at the Site, including, without limitation, labor costs, installation costs, overhead and profit, are included in the Contractor's Fee and not in the Allowance for that item. If the actual cost of performing that portion of the Work included within an Allowance is more or less than the Allowance amount, the parties will execute a Change Order to adjust the Contractor's Fee to reflect the shortage or surplus in the Allowance. Contractor must cause that portion of the Work included within an Allowance to be performed for such amounts and by such persons as FedEx may direct; FedEx, however, may not require Contractor to use any person to whom Contractor has a reasonable objection.

Section 4.03. Retainage. FedEx will retain ten percent (10%) of the Task Fee (a "**Retainage**") until Final Acceptance of a given Task at a particular Site. Each Retainage will become due and payable to Contractor only when final payment on account of a particular Task ("**Final Payment**") becomes due and payable as provided in this Agreement, i.e., when Contractor rectifies all punch list deficiencies existing with respect to the Task and satisfies all requirements of Section 4.09 below. If permitted by applicable law, FedEx may release out of the Retainage at Contractor's request for remittance to a Subcontractor all or part of the retainage withheld under the terms of the Subcontractor's Subcontract. As a condition to any early release of Retainage,

Contractor must deliver to FedEx a Conditional Waiver and Release on Final Payment which conforms to California Civil Code § 8136, executed by the Subcontractors that will be receiving the early release of Retainage. FedEx's election to permit any early release of Retainage will not constitute a waiver of, or otherwise prejudice, FedEx's right to require retention of the full amount of the Retainage until the Final Payment for a Task becomes due if, in FedEx's sole judgment, circumstances warrant that action.

Section 4.04. Contractor's Representations Regarding Applications for Payment. Contractor must sign each Application for Payment. Each Application for Payment will constitute Contractor's representation that the Work has progressed to the level for which payment is requested, that Contractor has properly performed the Work in accordance with all requirements of this Agreement, and that Contractor knows of no reason why payment should not be made as requested. Contractor's submission of an Application for Payment in connection with its performance of the Work will constitute an affirmative representation that all Work for which Contractor has received payments from FedEx is free and clear of liens, claims, security interests or other encumbrances in favor of Contractor or any other person or entity whatsoever. If FedEx learns that any of Contractor's representations, as set forth in this Section 4.04, are wholly or partially inaccurate, FedEx may withhold payment of sums then or in the future otherwise due to Contractor in an amount reasonably necessary to protect FedEx until Contractor corrects the inaccuracy and the circumstances giving rise to the inaccuracy to FedEx's reasonable satisfaction.

Section 4.05. FedEx's Review of Applications for Payment. FedEx has the right to review all Applications for Payment and to examine the Work at the Sites or elsewhere to determine whether the quantity and quality of the Work are as represented in the Application for Payment and satisfy all requirements of the Contract Documents.

Section 4.06. Title Passes Upon Payment. Contractor warrants that, upon payment of each of its Applications for Payment, title to all Work covered by the Application for Payment will immediately pass to FedEx.

Section 4.07. Use of Payments. Contractor shall use all sums paid to it in accordance with the terms of this Agreement for the performance of the Work. Contractor shall apply each progress payment it receives from FedEx to the payment of Subcontractors in accordance with the Subcontractor Payment Schedule that Contractor included with the Application for Payment that formed the basis for FedEx making that progress payment. At FedEx's request, Contractor shall furnish satisfactory proof as to the disposition of any monies FedEx pays to Contractor, but FedEx has no obligation to see to the proper disposition or application of monies FedEx pays to Contractor.

Section 4.08. Payment Not a Waiver. Neither the approval or making of any payment to Contractor nor the partial or entire use or occupancy of the Work by FedEx constitutes a Final Acceptance, defined below, of any portion of the Work.

Section 4.09. Final Acceptance and Payment. (a) FedEx's final acceptance of a Task ("**Final Acceptance**") will occur only after (i) Contractor finally completes, in its entirety the Task

and (ii) Contractor provides FedEx with all other items that the terms of the Contract Documents require necessary to complete the scope of Work on that Task.

(b) No later than the date that is thirty (30) days after the date on which Final Acceptance of a Task occurs and Contractor submits its complete Application for Payment seeking final payment ("**Final Payment**") of amounts properly due Contractor on account of that Task, including the Retainage applicable to that Task, FedEx shall make that Final Payment to Contractor. In order to be complete, an Application for Payment seeking a Final Payment on account of a Task Fee must include all of the items that Contractor must submit in accordance with the terms of Section 4.09(c). The amount of the Final Payment will be the amount provided in **Exhibit C-1**.

(c) FedEx may withhold a Final Payment until Contractor submits to FedEx the following:

- (i) An affidavit signed by an authorized officer of Contractor stating that all payrolls, bills for Materials, Services and all other indebtedness connected with the Task, for which FedEx or any of its property might in any way be responsible, have been paid or otherwise satisfied;
- (ii) A consent of surety to the Final Payment;
- (iii) Proof satisfactory to FedEx of the payment or satisfaction of all of Contractor's obligations arising from or connected with the Task, including, without limitation, the release and waiver of liens executed by Contractor (using a form which conforms to California Civil Code § 8136) and releases and waivers of liens from all of its Subcontractors in favor of FedEx (using a form which conforms to California Civil Code § 8136);
- (iv) Certification that all insurance that Contractor must maintain in force following the Final Payment in accordance with the terms of this Agreement is in effect and will not be canceled or allowed to lapse without written notice to FedEx;
- (v) A copy of each permit or license issued in connection with each Task and evidence satisfactory to FedEx that the governmental agency that issued that permit or license has approved that portion of the Work for each Task with respect to which the permit or license pertains and has closed the permit or license; and
- (vi) All photo identification and access badges, if any, issued in accordance with the terms of **Exhibit G-1** and **Exhibit G-2** below to workers engaged in the performance of the Work, except for lost or stolen badges, the loss or theft of which Contractor timely

reported to FedEx in accordance with the terms of **Exhibit G-1** and **Exhibit G-2**.

(d) If any Subcontractor refuses to furnish a release or waiver of lien, Contractor may furnish a bond in form and amount satisfactory to FedEx to indemnify it against any lien arising in favor of that Subcontractor. Notwithstanding the foregoing, FedEx reserves the right to make payment directly to any Subcontractor (or jointly to the Subcontractor and Contractor) in such amount as FedEx reasonably determines to be appropriate to protect FedEx's property from a lien to which that Subcontractor is entitled or alleges that it is entitled, and the amount owed Contractor will be reduced by the amount of any such payment by FedEx.

Section 4.10. FedEx's Right to Withhold Payment. FedEx may withhold all or part of any payment (including Final Payments) and it may withhold Retainages to such extent as it deems in good faith reasonably necessary to protect itself from loss on account of:

- (i) defective Work;
- (ii) third-party claims arising from the Work and filed against FedEx, or reasonable evidence indicating the probable filing of any such claim;
- (iii) reasonable and good faith belief that Contractor will not substantially complete a Task by the Substantial Completion Deadline corresponding to that Task;
- (iv) failure of Contractor to make payments, when due, to its Subcontractors or other suppliers of equipment, material or labor required in connection with the Work;
- (v) evidence of fraud, over-billing or overpayment discovered upon audit;
- (vi) unsatisfactory prosecution of the Work by Contractor;
- (vii) reasonable and good faith belief that Contractor cannot complete the Work for the unpaid balance of the Contractor's Fee;
- (viii) damage to another contractor, subcontractor or sub-subcontractor that Contractor causes; or
- (ix) inability or failure to account for photo identification or access badges issued in accordance with **Exhibit G-1** and **Exhibit G-2** below to workers engaged in the performance of the Work.

Section 4.11. Acceptance of Final Payment A Waiver. Acceptance by Contractor of a Final Payment as to a Task will constitute Contractor's waiver and release of all claims against FedEx

associated with the Task to which the Final Payment applies except for those claims that Contractor previously made in writing against FedEx, that were pending at the time Contractor submitted its Application for the Final Payment, and that Contractor specifically identified on its Application for Final Payment as unsettled at that time.

ARTICLE 5 EQUIPMENT AND MATERIALS

Section 5.01. Materials Provided by Contractor. (a) All Materials incorporated in the Work must be new and unused and, when not specified in detail in the Contract Documents, all Materials incorporated in the Work must be of the most suitable grade and quality for the purpose intended.

(b) Contractor must furnish, use, install, employ and protect each item of Materials in strict compliance with the specifications, recommendations and instructions of the manufacturer or supplier, unless those specifications, recommendations or instructions deviate from accepted construction practices or the Contract Documents, in which case Contractor shall inform FedEx and shall proceed as FedEx directs. Contractor must coordinate and interrelate all Subcontracts to ensure the compatibility of Materials and the validity of all warranties and guarantees that the Contract Documents require.

Section 5.02. Type of Material Used. (a) Where the Contract Documents refer to any Material by trade name, make or catalog number followed by the words "or equal," that reference establishes the standard of quality and performance required and does not reflect an intent to limit competition. With FedEx's prior written approval, Contractor may use other Materials that are equal in quality and performance to those named in the Contract Documents, but no such approval will constitute a waiver of FedEx's right to require use of Materials that conform to the standards of quality and performance established in the Contract Documents with respect to the item, for which FedEx approved the substitution. FedEx's approval of a proposed substitution does not constitute final acceptance of the substitute Material if it proves defective or not as previously represented. Contractor must bear any additional expense resulting from the substitution, including, without limitation, the cost of any supplemental materials or installation procedures that differ from, or that must be performed in addition to, those required for the Material for which Contractor made the substitution.

(b) Within sufficient time to avoid delays in the Work, Contractor must submit to FedEx the name of the manufacturer, model number and other identifying information relating to the performance, capacity, nature and rating of Materials proposed in substitution for those specified in the Contract Documents. Where the Contract Documents specify Materials by trade name, make or catalog number without using the words "or equal," Contractor may not substitute Materials and must furnish the items as specified.

Section 5.03. Non-Conforming Materials. (a) If Contractor installs or uses Materials in the Work that do not comply with the requirements of the Contract Documents and that FedEx has not previously approved, it does so at the risk of FedEx's subsequent rejection.

(b) Contractor is fully and solely responsible for quality control for all Materials used in the performance of the Work.

(c) FedEx may elect to accept any portion of the Work that does not conform with the requirements of the Contract Documents instead of requiring Contractor to remove and correct it. If FedEx makes that election, the parties shall equitably reduce the Contractor's Fee and, if that reduction occurs after FedEx has previously made the Final Payment on account of the Task Fee applicable to the non-conforming Work, Contractor shall promptly remit the amount of the reduction to FedEx. The parties will resolve any dispute that arises regarding the amount of any adjustment to the Contractor's Fee required by virtue of the terms of this Section 5.03(c) in accordance with the procedures set forth in Article 26 and, if necessary, by means of appropriate judicial action.

Section 5.04. Intentionally omitted.

ARTICLE 6 "AS-BUILT" DRAWINGS AND DATA

Section 6.01. "As-Built" Drawings. Contractor shall maintain a complete set of drawings at the Site for the purpose of showing "as-built" conditions. Contractor shall cause those drawings to be kept current and to be marked each day to show all changes and variations, with each entry being dated and verified as made. Contractor shall furnish to FedEx upon request reproducible tracings of "as-built" drawings through Procore or another cloud-based construction management platform mutually agreed-upon by the Parties. Upon completion of the Work and prior to Final Payment, Contractor shall provide to FedEx one complete reproducible set and one complete electronic set of the "as-built" drawings for the Project recorded in AutoCAD or compatible format (or such other format then in common use by commercial architects as FedEx may designate from time to time) and submitted through Procore or another cloud-based construction management platform mutually agreed-upon by the Parties.

Section 6.02. Operation and Maintenance Data. (a) Contractor shall furnish complete data for the operation, repair and maintenance of each operating component and system of the Project (the "Data"). The Data shall include electronic versions of shop drawings showing "as-installed" conditions, sources of equipment and principal materials, specified tests and performance data, operating instructions for both Project components and systems, repair and maintenance data, lubrication instructions and recommendations, parts lists and other catalog data or information required to operate and maintain any part of the Work. Contractor shall take care to exclude inapplicable or duplicate information. The Data shall be submitted through Procore or another cloud-based construction management platform mutually agreed-upon by the Parties.

(b) Prior to Final Payment, Contractor shall provide to FedEx one (1) electronic version of the Data in a .pdf or similar format.

(c) Contractor shall provide installation information for all machinery and equipment upon request from FedEx.

Section 6.03. Information From Suppliers. As a condition of its purchase of equipment, Contractor shall require its suppliers to (i) furnish complete and adequate operating and maintenance data pertaining to their equipment, (ii) assign to FedEx any warranty, express or implied, that the manufacturer of the equipment furnishes, and (iii) assign to FedEx any customary maintenance or repair service, spare parts supply service or personnel support service that the manufacturer of the equipment furnishes. If the terms and conditions of any warranty, maintenance or repair service, spare parts supply service or personnel support service that the manufacturer of the equipment furnishes are negotiable, FedEx may negotiate those terms and conditions with the manufacturer at FedEx's election. Contractor shall use its best efforts to advise FedEx in advance of placing any order for equipment, for which the warranty period commences upon purchase or shipment.

ARTICLE 7 SUBCONTRACTORS

Section 7.01. Definition. As used in this Agreement and the other Contract Documents, a "**Subcontractor**" is any person or organization that has either a contract (a "**Subcontract**") with Contractor to perform any portion of the Work or to provide to Contractor Materials or Services required in connection with the Work or a direct or indirect contract with a Subcontractor to perform any portion of the Work or to provide to a Subcontractor Materials or Services required in connection with the Work. For clarity, and notwithstanding anything to the contrary in this Agreement, BTC Power shall not be considered a Subcontractor under this Agreement and Contractor's agreement with BTC Power shall not be subject to the requirements of Section 7.04.

Section 7.02. No Contractual Relationship With FedEx. The Contract Documents do not create any contractual relationship between FedEx and any Subcontractor, and no Subcontract shall relieve Contractor of its obligation to completely perform the Work for the Contractor's Fee if any Subcontractor fails to perform its work in a satisfactory manner. Contractor is as fully responsible to FedEx for the acts and omissions of its Subcontractors and the persons the Subcontractors employ, directly or indirectly, as it is for the acts and omissions of persons Contractor directly employs.

Section 7.03. Award of Subcontracts. (a) Contractor may award Subcontracts for principal portions of the Work only to persons and entities that appear on a list of Subcontractors jointly developed with, and approved by, FedEx or that FedEx approves by means of written notice that it delivers to Contractor, which approval shall not be unreasonably withheld by FedEx. FedEx acknowledges Contractor's intention to subcontract that portion of the Work related to the installation of electric vehicle charging stations at each Site to MaxGen Energy Services Corporation, a California licensed contractor, and FedEx consents to the use of MaxGen Energy Services Corporation for and related to that scope of work under this Agreement. Contractor shall furnish to FedEx written notice of the name of any other Subcontractor that Contractor intends to hire and the amount of the contract sum for which that prospective Subcontractor is prepared to perform. Contractor may not execute a Subcontract with any prospective Subcontractor to whom FedEx reasonably and with good cause objects promptly following its receipt of Contractor's notice, even if FedEx had previously indicated its approval of that Subcontractor. One of the

factors the parties will consider when developing and approving prospective Subcontractor lists will be local and minority participation. To that end, Contractor acknowledges the requirements set forth in the attached Exhibit H.

(b) Contractor may contract, and may permit its Subcontractors to contract, only with Subcontractors skilled in the tasks assigned to them and capable of working harmoniously with all trades, crafts and other individuals on the Project. In that regard, Contractor must use its best efforts to minimize the likelihood of any strike, work stoppage or other labor disturbance. To that end, Contractor shall promptly resolve claims, complaints, labor disputes and disputes over assignment or work tasks among the Subcontractors engaged in the performance of the Work.

(c) FedEx may, upon a determination of good cause, require Contractor to dismiss any Subcontractor for misconduct or non-performance and to substitute a Subcontractor acceptable to FedEx. If FedEx requires a substitute for any Subcontractor for any reason other than the Subcontractor's misconduct or non-performance, the parties will adjust the Contractor's Fee by means of a Change Order in order to reflect the difference in cost that the substitution occasions.

(d) Contractor may replace a Subcontractor to whom Contractor has awarded a Subcontract in accordance with the terms of this Agreement only with FedEx's prior written approval, which approval shall not be unreasonably withheld, and only for the following reasons:

- (i) Inability of the Subcontractor to provide bonds, if required;
- (ii) Failure of the Subcontractor to perform according to approved schedules or other provisions of the Contract Documents; or
- (iii) Other reasons that reasonably would render the Subcontractor unable to perform its work according to the Contract Documents, as Contractor determines in good faith.

Section 7.04. Subcontract Terms. A Subcontractor must perform all portions of the Work that it undertakes in accordance with the terms of a written agreement between Contractor and the Subcontractor (and, where appropriate, between Subcontractors and their subcontractors), which agreement must provide for the payment of a fixed contract sum to the Subcontractor as consideration for the Materials or Services that the Subcontractor is furnishing. Each Subcontract (other than Subcontracts that Contractor executes with material suppliers who provide Materials that are required for the performance of the Work, but that are not specifically fabricated, assembled or prepared as part of the Work) must contain provisions that:

- (i) preserve and protect the rights of FedEx under the terms of the Contract Documents as they pertain to the portion of the Work performed by the Subcontractor;
- (ii) require that the Subcontractor's work be performed in accordance with the requirements of the Contract Documents;

- (iii) require submission to Contractor of applications for payment;
- (iv) require that the Subcontractor submit to Contractor all claims for additional monies, extensions of time, damages for delay or similar matters relating to the subcontracted portion of the Work in sufficient time to enable Contractor to comply in the manner provided in the Contract Documents for like claims by Contractor upon FedEx;
- (v) obligate the Subcontractor to consent specifically to the provisions of Sections 4.03, 7.02, 16.01 and 24.01 of this Agreement;
- (vi) incorporate into the Subcontract a waiver by the Subcontractor in favor of Contractor that is substantially the same as the waiver set forth in Section 3.03(b);
- (vii) require the Subcontractor (A) to be subject to, and to comply with, the requirements of Section 14.02 below to the same extent that would exist if the term "Contractor Taxes" meant taxes, excises, duties and assessments (I) that arise out of the Subcontractor's performance of its portion of the Work and are levied, assessed or imposed by any governmental or quasi-governmental authority or any agency of any such authority having jurisdiction over a Site and the Task performed on that Site, including, without limitation, taxes and contributions that Legal Requirements require for employment insurance, pensions, old age retirement funds or similar purposes, (II) that are based upon the Subcontractor's gross receipts or net income or that are similarly based, or (III) that are imposed on the Subcontractor for the privilege of doing business or exercising a franchise or that are similarly based, and (B) to be subject to, and to comply with, the requirements of Section 14.01 to the extent that it applies to Transaction Taxes payable in respect of the Subcontractor's portion of the Work;
- (viii) include FedEx and the Landlords of the Sites to which the Subcontract relates as additional indemnitees in any indemnity the Subcontractor makes in favor of Contractor in the Subcontract;
- (ix) require the Subcontractor to include FedEx and the Landlords of the Sites to which the Subcontract relates as additional insureds under the terms of any policy of commercial general liability insurance that the Subcontractor must maintain in force under the terms of the Subcontract;
- (x) have the effect of waiving and releasing, to the extent of the proceeds that are or would be payable to it in respect of policies of

property insurance that the Subcontractor maintains in force or that are generally available to insure personal property comparable to that of the Subcontractor in the metropolitan area in which each Site to which the Subcontract relates is located, all rights of recovery, claim, action or cause of action that it may now or later have against FedEx, the Landlords of the Sites to which the Subcontract relates or their respective agents, officers and employees, by virtue of any loss or damage to the Subcontractor's personal property, regardless of cause or origin, including, without limitation, the negligence of FedEx, any of the Landlords or any of their respective representatives, agents, employees, contractors and invitees;

- (xi) require the Subcontractor to use test forms that FedEx provides when conducting tests that must be performed in respect of its portion of the Work;
- (xii) accord to Contractor a right to terminate the Subcontract without cause that is comparable to the right set forth in Section 25.02 of this Agreement and obligate the Subcontractor to reserve a comparable right in its favor in any lower-tier Subcontract;
- (xiii) include warranties in favor of Contractor and FedEx substantially the same as those set forth in Sections 18.01 and 18.04 of this Agreement;
- (xiv) incorporate dispute resolution provisions that are substantially the same as, and consistent with, Article 26 of this Agreement; and
- (xv) if that portion of the Work that the Subcontractor will perform will occur on a Special Restriction Site, obligate the Subcontractor to comply with the provisions set forth in the attached **Exhibit F**.

Section 7.05. Unit Prices. As required by the Contract Documents, Contractor shall solicit unit price bids from prospective Subcontractors for certain portions of the Work and, in the Subcontracts awarded with respect to those portions of the Work, shall obligate the Subcontractor (i) during the term of the Subcontract to adjust the contract sum set forth in the Subcontract based on the unit prices it bid (without the application of any multiplier) if changes in the Work that FedEx requests affects that Subcontractor's portion of the Work, and (ii) to execute at Contractor's request additional Subcontracts under the terms of which the Subcontractor will perform additional portions of the Work for contract sums based on the unit prices it bid (without the application of any multiplier).

Section 7.06. Kick-backs and Self-Dealing. Contractor may not induce any person or entity engaged in performing the Work to give up any part of the compensation to which that person or entity is entitled. Moreover, without FedEx's written consent, Contractor may not call for, or by exclusion require or recommend, the use of any Subcontractor, consultant, Material, system,

process or procedure in which Contractor has a direct or indirect proprietary or other pecuniary interest.

Section 7.07. Copies of Subcontracts. Within two (2) business days after receipt of a request from FedEx, Contractor shall furnish to FedEx a full and complete copy of any Subcontract FedEx designates in its request.

ARTICLE 8 PAYMENT TO SUBCONTRACTORS

Section 8.01. FedEx's Withholding of Payment. If FedEx withholds monies for any cause attributable to the fault of Contractor, but not to the fault of a Subcontractor, who would have received a payment out of the payment for which Contractor had made application to FedEx, Contractor shall pay that Subcontractor for its work, to the extent completed, upon demand made by the Subcontractor at any time after the payment by FedEx to Contractor otherwise would have become due.

Section 8.02. Independent Obligation to Pay. Contractor's obligation to pay its Subcontractors is an independent obligation from FedEx's obligation to pay Contractor, and FedEx has no obligation to pay or to see to the payment of any monies to any Subcontractor. FedEx reserves the right, however, to make payment jointly to Contractor and any Subcontractor if FedEx determines that Contractor fails without reasonable cause to pay or withhold payment from that Subcontractor. FedEx's use of that joint check procedure will create no rights in favor of any person or entity beyond the right of the check payees to payment of the check and will not commit FedEx to repeat the procedure in the future.

Section 8.03. Discharge of Liens. Contractor must not permit any laborer's, materialman's, mechanic's or other similar liens to be filed or otherwise imposed on any part of the Work or any Site by any person claiming by, through or under Contractor unless the filing or imposition of the lien is attributable to FedEx's failure to make a payment to Contractor when obligated to do so under the terms of this Agreement. If, under other circumstances, any laborer's, materialman's, mechanic's or other similar lien or claim is filed, Contractor shall cause the lien to be released or discharged by payment, bonding or otherwise within twenty-five (25) days after Contractor receives notice of the filing or imposition of the lien.

ARTICLE 9 CHANGES

Section 9.01. Changes in the Work. (a) Without invalidating this Agreement, FedEx may order extra work or make changes by altering, adding to or deducting from the Work by executing a Change Order in the form of the attached Exhibit D-1 or a Construction Change Directive in the form of the attached Exhibit D-2. In addition to the foregoing, FedEx may delete, add, or substitute a Site or Sites by executing a Change Order. If FedEx adds a Site that is a Special Restriction Site, the Change Order will include, and Contractor must observe and cause its subcontractors to observe, any Lease requirements applicable to that Special Restriction Site.

Contractor shall perform all work required by virtue of a valid Change Order or a valid Construction Change Directive in accordance with the conditions of this Agreement and the other Contract Documents.

(b) By written instructions to Contractor, FedEx may also make changes in the Work not involving extra cost and not inconsistent with the purposes of the Work without execution of a Change Order or a Construction Change Directive, but, except for such changes, Contractor may not undertake any extra Work or bring about a change in the Work unless either the parties execute a Change Order or FedEx executes and delivers a Construction Change Directive. No claim for an addition to the Contractor's Fee or any extension of any Substantial Completion Deadline will be valid unless FedEx orders it in a written Change Order or FedEx issues a Construction Change Directive and the outcome of the application of the dispute resolution procedures set forth in Article 26 or a judicial action initiated to resolve a dispute regarding FedEx's requirement for the change in the Work is the claimed adjustment in the Contractor's Fee or the Substantial Completion Deadline, as applicable.

Section 9.02. Change Order Procedure. Upon receipt of a request from FedEx for extra work or changes in the Work that would increase or decrease the Contractor's Fee or affect any Substantial Completion Deadline, Contractor shall furnish to FedEx a detailed statement of Contractor's proposal for performing the extra work or changes in the Work and the effect of the extra work or changes, if any, on the Contractor's Fee and the Substantial Completion Deadline. If FedEx approves Contractor's proposal, in writing, FedEx shall prepare a Change Order that adjusts the Contractor's Fee and the Substantial Completion Deadline, as appropriate, and incorporates the terms of Contractor's proposal. The parties shall execute that Change Order after observing any special conditions set forth in Exhibit C-1. If required by FedEx, Contractor shall solicit bids in accordance with the provisions of this Agreement and the other Contract Documents with respect to any extra work or change in the work FedEx is considering. If the parties fail to agree upon the terms to be incorporated into a Change Order, FedEx may issue a Construction Change Directive to Contractor that directs Contractor to proceed with the implementation of all or part of the proposed change that would have been the subject of that Change Order and the parties will use the procedures set forth in Article 26 and, if necessary, appropriate judicial proceedings to determine the adjustments in the Contractor's Fee and the relevant Substantial Completion Deadline to which Contractor is reasonably entitled by virtue of the change in the scope of the Work that FedEx has directed. Upon Contractor's receipt of a Construction Change Directive that FedEx has executed, Contractor must promptly proceed with the implementation of the proposed change that was the subject of the Change Order upon which the parties failed to agree; Contractor's failure to execute the Construction Change Directive will not justify any delay on Contractor's part in proceeding with the implementation of the proposed change.

Section 9.03. Limitations on Contractor's Fee Adjustments. In making any proposal in accordance with Section 9.02 with respect to extra work or changes in the Work that will require Materials or Construction Services covered by unit prices that Contractor obtains from its Subcontractors in accordance with Section 7.05, Contractor shall base its proposal on those unit prices without the application of any multiplier or mark-up. In making any other such proposal, Contractor must observe, and must cause each Subcontractor that the extra work or changes in the Work will affect to observe, the following requirements:

- (i) In the case of changes that will enlarge the scope of a Task, the following restrictions with respect to the adjustments in contract sums payable to affected Subcontractors and to the adjustment of the Task Fee will apply:
- (a) No Subcontractor that will be performing any part of the extra work or implementing any part of the change in the Task through the use of its own forces may charge more than five percent (5%) of the Subcontractor's good faith estimate of the "Cost of the Change", as defined below, for overhead and profit associated with that part of the extra work or change in the Task;
 - (b) No Subcontractor that will be performing any part of the extra work or implementing any part of the change in the Task through the use of one or more lower-tier Subcontractors may charge more than five percent (5%) of the Subcontractor's good faith estimate of the Cost of the Change for overhead and profit associated with that part of the extra work or change in the Task;
 - (c) Contractor may not charge more than ten percent (10%) of Contractor's good faith estimate of the Cost of the Change for overhead and profit associated with that part of the extra work or change in the Task that Contractor will be performing through the use of its own forces; and
 - (d) Contractor may not charge more than ten percent (10%) of Contractor's good faith estimate of the Cost of the Change for overhead and profit associated with that part of the extra work or change in the Task that Contractor will be performing through the use of one or more Subcontractors; and
- (ii) In the case of changes that will reduce the scope of a Task, the following requirements with respect to the adjustments in contract sums payable to affected Subcontractors and to the adjustment of the Task Fee will apply:
- (a) Each Subcontractor that intended to perform any part of that portion of the Task eliminated from the scope of the Task through the use of its own forces must reduce the overhead and profit encompassed within the contract sum set forth in its Subcontract by five percent (5%) of the Subcontractor's good faith estimate of the Cost of the Change, as defined below, for that part of the Task to be eliminated;
 - (b) Each Subcontractor that intended to perform any part of that portion of the Task eliminated from the scope of the Task through the use of one or more lower-tier Subcontractors must reduce the overhead and profit encompassed within the contract sum set forth in its

Subcontract by five percent (5%) of the Subcontractor's good faith estimate of the Cost of the Change, as defined below, for that part of the Task to be eliminated;

- (c) Contractor must reduce the overhead and profit encompassed within the Task Fee by five percent (5%) of Contractor's good faith estimate of the Cost of the Change associated with that part of the Task to be eliminated that Contractor planned to perform through the use of its own forces; and
- (d) Contractor must reduce the overhead and profit encompassed within the Task Fee by five percent (5%) of Contractor's good faith estimate of the Cost of the Change associated with that part of the Task to be eliminated that Contractor planned to perform through the use of one or more Subcontractors.

The parties will memorialize a change that enlarges the scope of a Task by means of an "**Additive Change Order**" and will memorialize a change that reduces the scope of a Task by means of a "**Deductive Change Order**". In the context of an Additive Change Order:

- (i) a Subcontractor's "Cost of the Change" will be the net increase in the cost categories identified below that the Subcontractor will realize by reason of the performance of the extra work or the implementation of the changes in the Task described in the Change Order, and
- (ii) the Contractor's "Cost of the Change" will be the sum of (a) the net increase in the cost categories identified below that Contractor will realize by reason of the performance of the extra work or the implementation of the changes in the Task described in the Change Order and (b) the sum of the Costs of the Change that the Subcontractors that the extra work or changes in the Task will affect will respectively realize.

In the context of a Deductive Change Order:

- (i) a Subcontractor's "Cost of the Change" will be the net savings in the cost categories identified below that the Subcontractor will realize by reason of the implementation of the changes in the Task described in the Change Order, and
- (ii) the Contractor's "Cost of the Change" will be the sum of (a) the net savings in the cost categories identified below that Contractor will realize by reason of the implementation of the change in the Task described in the Change Order and (b) the sum of the Costs of the Change that the Subcontractors that the changes in the Task will affect will respectively realize.

The cost categories that Contractor and each affected Subcontractor may consider in calculating a "Cost of the Change" include:

- (i) Wages paid for labor in the direct employ of Contractor or the Subcontractor, as the case may be, in the performance of the Task; the cost of welfare or fringe benefits, if any, furnished to such wage earners; usual vacation pay that Contractor or the Subcontractor pays to its key wage-earning employees engaged in the performance of the Task at the Site and incentive bonuses paid to such key employees to the extent that FedEx approved the amount of the incentive in advance;
- (ii) Salaries of the Superintendent and other supervisory or administrative personnel that Contractor or the Subcontractor, as the case may be, engages in the performance of the Task at the field office or, with FedEx's prior approval, at the central office or at shops or on the road in expediting the inspection, production or transportation of the Materials; the cost of welfare or fringe benefits, if any, furnished to such personnel; usual vacation pay that Contractor or the Subcontractor, as the case may be, pays to its key salaried employees engaged in the performance of the Task at the Site and incentive bonuses paid to such key employees to the extent that FedEx approved the amount of the incentive in advance;
- (iii) Costs of contributions, assessments or taxes for such items as unemployment compensation insurance and Social Security associated with the wages, salaries or other remuneration paid to Contractor's or the Subcontractor's employees described in divisions (i) and (ii) above;
- (iv) The cost (including transportation, storage, installation, operating, dismantling, removal and repair costs not of a capital nature) of all Materials, equipment, temporary structures, small tools not owned by workmen, and supplies purchased or used in connection with the Task. Such costs may include a fair rental for all tools and equipment furnished by Contractor or a Subcontractor from its own stock not to exceed seventy five percent (75%) (or such greater percentage as FedEx may approve) of the published rates based on the most recent edition of "Compilation of Nationally Averaged Rental Rates" published by the Associated Equipment Distributors; if the tools or equipment furnished by Contractor or a Subcontractor from its own stock do not appear on the rate schedule of the Associated Equipment Distributors, Contractor's or the Subcontractor's costs may include a fair rental not to exceed seventy five percent (75%) (or such greater percentage as FedEx may approve) of the rental rate generally charged by third party distributors in the vicinity of the Site. Rental costs for any tool or equipment furnished by Contractor or a Subcontractor from its own stock may not exceed the market value of the tool or the equipment at the time Contractor or the Subcontractor commits it to the Task;

- (v) Fees for permits, licenses, patents, royalties, inspections and surveys;
- (vi) Fees of laboratories for tests that the Contract Documents require Contractor or the Subcontractor to provide, except those related to defective or non-conforming work;
- (vii) The cost of crossing or protecting any public utility lines, mains or conduits, if required and as directed by FedEx;
- (viii) The cost of removal of all debris;
- (ix) Federal, State and municipal sales, use and other similar taxes payable with respect to Materials or Services;
- (x) Cost of, or rental charges for, temporary portable buildings, toilets, ice, water containers, cups, fire extinguishers, first aid supplies, safety equipment, street and sidewalk rental, and FedEx-approved off-site storage space or facilities;
- (xi) Premiums for the performance and payment bonds required in connection with the Work; and
- (xii) Reasonable attorneys' fees, incurred with FedEx's approval in connection with the prosecution of the Task.

In the calculation of a "Cost of the Change", neither Contractor nor any Subcontractor may include any cost fairly characterized as follows:

- (i) A cost that would otherwise fit within any of the categories described above to the extent that it exceeds the standard costs paid in the locality of the Site;
- (ii) The costs associated with the services of any of Contractor's or the Subcontractor's officers or general office supervisory and clerical personnel or any of Contractor's or the Subcontractor's personnel in its personnel, legal, labor relations, insurance, accounting, tax, purchasing and estimating departments, and all other costs associated with the maintenance and operation of Contractor's or the Subcontractor's general offices and established branch offices other than the field office established at the Site;
- (iii) Interest costs associated with capital Contractor or the Subcontractor, as the case may be, employs in connection with the Task;

- (iv) Federal, State or local income and franchise taxes for which Contractor or the Subcontractor is liable;
- (v) Premiums for the insurance required in connection with the Work;
- (vi) The cost of document reproductions, facsimile transmissions, telephone service, internet service, postage, parcel delivery charges, photographs, blueprints, stationery, office supplies, and related miscellaneous costs that Contractor or the Subcontractor will incur in connection with the Task, except as expressly enumerated in the preceding sentence; and
- (vii) The cost of furniture, fixtures, office equipment and utility services Contractor or the Subcontractor will incur in connection with the operation of its field office at the Site.

ARTICLE 10 CONTRACTOR'S UNDERSTANDING

Section 10.01. Examination of Sites. (a) Contractor acknowledges that, by careful examination, it has satisfied itself as to the nature and location of the Work, the character, quality and quantity of Materials needed prior to and during the prosecution of the Work, general and local conditions affecting the availability of Materials and Services, the availability of utility services at the Sites, and all other matters that may affect the Work. Contractor also acknowledges that it has reviewed all available as-built and record drawings, plans and specifications for existing structures and other man-made features on the Sites and has thoroughly inspected those structures and other man-made features.

(b) Contractor acknowledges that, by careful examination, it has obtained a complete and detailed understanding of the scope and nature of FedEx's business operations, which will continue on or in the vicinity of each Site during the course of Contractor's performance of the Work and of the potentially catastrophic damages (including, without limitation, lost revenues) that FedEx may sustain if Contractor does not adhere strictly to the requirements of this Agreement and the other Contract Documents.

Section 10.02. Sufficiency of Contract Documents. (a) Contractor acknowledges that, if it determines that discrepancies, omissions, ambiguities or conflicts exist in the Contract Documents, Contractor shall seek clarifications and corrections in a timely manner in order to ensure substantial completion of each Task by the Substantial Completion Deadline corresponding to that Task. Contractor's failure to advise FedEx of the existence of any such discrepancies, omissions, ambiguities or conflicts in those Contract Documents which have been prepared by Contractor within thirty (30) calendar days after the Effective Date will constitute Contractor's acknowledgment that none exist in those Contract Documents prepared by Contractor. In addition, Contractor acknowledges that FedEx has not made any warranties, guarantees or representations of any kind regarding the sufficiency of the Contract Documents (i.e., the extent to which the Contract Documents are complete, accurate, coordinated or adequate for bidding or the performance of the Work) or any other matter relating to the Project. FedEx has provided data or

information to Contractor for Contractor's information only and not as a representation or warranty. FedEx is not responsible for the accuracy of any such data or information or any deduction, interpretation or conclusion that Contractor draws from it.

(b) FedEx will not be responsible for, and the Contractor's Fee will not be adjusted by reason of, any damages resulting from any discrepancies, omissions, ambiguities or conflicts in the Contract Documents that Contractor does not note in accordance with the terms of Section 10.02(a).

Section 10.03. No Oral Modification. No oral agreement or conversation with any officer, agent or employee of FedEx either before or after the execution of this Agreement will affect or modify any of the terms or obligations contained in this Agreement or the other Contract Documents.

Section 10.04. Contractor's Experience and Capabilities. Contractor has induced FedEx to execute this Agreement based upon Contractor's representations that (i) it is experienced in the type of Work for which FedEx is engaging Contractor, (ii) it is authorized and duly licensed to perform the Work in each State and locality in which a Site is located, (iii) it is qualified, willing and able to perform the Work, and (iv) it has the expertise and ability to provide services and Materials that will meet FedEx's objectives and requirements and that will comply with all applicable Legal Requirements.

Section 10.05. Utilities. FedEx will provide water and electrical power for use in each Task only to the extent of the capacity of the utility system infrastructure in place as of the date on which Contractor commences the Task. As part of the Work, Contractor must provide and pay for connections to and extensions from that infrastructure and for the means of distributing those utility services within the Site during the performance of the Task. FedEx shall pay all charges for utility services that are consumed in the performance of the Work and the consumption of which is measured by FedEx's meters.

Section 10.06. Permissible Work Hours. Without FedEx's prior written consent, Contractor may not conduct actual construction activity at a Site on days or during hours other than those designated as "Permissible Work Hours" by the applicable Station Manager.

Section 10.07. Landlord Consents. To the extent that any Lease requires that FedEx secure the Landlord's advance consent to the performance of the Task corresponding to the Site which that Lease covers, FedEx represents that FedEx has obtained that consent.

ARTICLE 11 FEDEX'S REPRESENTATIVE

Section 11.01. FedEx's Representative. In its Notice to Proceed, FedEx shall designate its representative for the Work ("**FedEx's Representative**"). FedEx's Representative will have full authority to stop the Work whenever, in his or her best judgment, the stoppage may be necessary to ensure the proper execution of the Work. FedEx's Representative will have authority to reject any Work that does not conform to the requirements of this Agreement or the other Contract

Documents and to decide questions that arise during the performance of the Work. FedEx's Representative will also designate in writing all persons in FedEx's employ, who are authorized to have access to a Site. FedEx has the right to replace its Representative at any time and for any reason. Contractor may not accept direction, nor permit any of its Subcontractors to accept direction, from any FedEx employee other than FedEx's Representative and the FedEx employees that FedEx's Representative specifically designates by written notice to Contractor.

Section 11.02. FedEx's Decisions. As soon as practicable after presentation to him or her, FedEx's Representative shall make decisions in writing on all matters relating to the prosecution of the Work or the interpretation of the Contract Documents and, unless Contractor initiates the procedures set forth in Article 26 within thirty (30) days after the Substantial Completion Date for the applicable Task, any decision that FedEx's Representative makes with respect to that Task will be conclusive.

ARTICLE 12 SUPERVISION OF THE WORK; SAFETY AND SECURITY

Section 12.01. Contractor's Supervisory Personnel. In connection with each Task, Contractor shall designate in writing a competent superintendent (the "Superintendent"), who must be satisfactory to FedEx. FedEx's approval, which shall not be unreasonably withheld, of a Superintendent will not relieve Contractor of any of its responsibilities, obligations, warranties or duties. Contractor shall replace a Superintendent upon a determination of good cause and FedEx's written request, but Contractor may not replace a Superintendent without FedEx's prior written consent unless the Superintendent ceases to be in Contractor's employ. Each Superintendent will represent Contractor in connection with the Task or Tasks to which Contractor assigns the Superintendent and all directions that FedEx gives to him or her will be as binding as if given directly to Contractor's executive officers. Each Superintendent must devote his or her full time to the Task or Tasks to which Contractor assigns the Superintendent until Final Acceptance of that Task or those Tasks occurs. The Superintendent will direct, coordinate and supervise all Work within the scope of his or her responsibility, inspect all Materials delivered to the Sites for which he or she has responsibility to ascertain whether or not they comply with the requirements of the Contract Documents, and reject all non-conforming Work.

Section 12.02. Staffing. All personnel that Contractor uses in the performance of the Work must be qualified by training, experience and licensure to perform their assigned tasks and must have all licenses required by applicable Legal Requirements or the Contract Documents and, at FedEx's request, Contractor will not use any personnel that FedEx determines in good faith to be incompetent, careless, unqualified to perform the work assigned to him or her, or otherwise unsatisfactory. Except for the foregoing rights that FedEx expressly reserves, all matters pertaining to Contractor's employees will be Contractor's responsibility.

Section 12.03. Order and Discipline. (a) Contractor shall enforce strict discipline and good order at all times among its employees and the employees of its Subcontractors. If any person at any Site appears to be incompetent, disorderly or intemperate, or disrupts or interferes with the Work in any way, or makes an inappropriate racial, sexual or ethnic comment, statement or gesture

toward any other individual engaged in the performance of the Work or any FedEx employee working at or in the vicinity of the Site, or is in any other way disqualified for or unfaithful to the job entrusted to him or her, Contractor shall replace such person, or cause such person to be replaced, immediately and shall prohibit the further use of such person in connection with the Work unless FedEx grants written permission for such use.

(b) FedEx reserves the right to invoke after delivering specific written notice to Contractor of its intent to do so any security means FedEx considers appropriate to protect the Sites and the Work under construction. Moreover, FedEx may designate one or more ways of ingress and egress over a Site for the purpose of showing that Site to potential purchasers, lenders or others. FedEx must, however, designate those ways of ingress and egress so that their use will not materially interfere with Contractor's performance of the Work or increase the insurance risk associated with Contractor's performance of the Work.

Section 12.04. Cleaning Up. (a) At the end of each working day, Contractor shall remove all waste materials, rubbish and debris from and about the Work, shall place all tools and Materials not yet incorporated into the Work in the on-site storage area designated at each Site, and shall leave each Site clean in accordance with the requirements of the Contract Documents.

(b) Contractor must store all Materials delivered in connection with the Work in locations FedEx approves and must store and handle those Materials as appropriate to ensure safety, to preclude the inclusion of any foreign substances, and to prevent any discoloration or damage that might reduce the effectiveness of such Materials when incorporated into the Project.

Section 12.05. Safety and Security. (a) Each week Contractor will provide FedEx a list of persons scheduled to work at the Sites and Contractor, its Subcontractors and their respective employees shall comply with all security rules FedEx makes, including, without limitation, those set forth in the attached Exhibit G-1 and, if the Site is a Special Restriction Site, those set forth in the attached Exhibit G-2.

(b) Upon request, Contractor shall provide to FedEx's Representative a list of all of its employees that will perform any of the Work. At FedEx's request and to the extent permitted under applicable laws, Contractor shall perform criminal record checks of any employee that FedEx designates.

(c) In the performance of the Work, Contractor shall observe, and shall cause its Subcontractors to observe, (i) all requirements that Factory Mutual Insurance Company establishes with respect to the Project made known to Contractor, including, without limitation, those relating to "hot works", (ii) all applicable requirements of the "FedEx Contractor Safety Manual" and (iii) in the case of Work performed at a Special Restriction Site, all requirements of the "FedEx AGFS Contractor Ramp Rules". FedEx has provided Contractor the information needed to access the "FedEx Contractor Safety Manual" and the "FedEx AGFS Contractor Ramp Rules" (collectively called the "Safety Manuals"). Contractor has read and understands all parts of the Safety Manuals. Contractor shall cause all workers performing the Work to read the Safety Manuals in their entirety and, at FedEx's request from time to time made, shall acknowledge that all workers then performing the Work understand all parts of the Safety Manuals.

(d) FedEx must be able to contact a Superintendent via telephone at all times during which work is not actually being performed on the Site or Sites for which the Superintendent has responsibility, such as nights, weekends and legal holidays. To that end, Contractor shall regularly provide to FedEx's Representative the telephone numbers of the Superintendents.

Section 12.06. Inspection of the Work. (a) FedEx and its designees must have access to the Work at all times for the purpose of inspecting it, and Contractor shall provide proper facilities for such access and inspection. If any portion of the Work that FedEx wishes to inspect is covered or concealed, Contractor shall uncover it at FedEx's direction for observation and, following FedEx's inspection; shall restore the area affected by the uncovering. If the designated portion of the Work was covered before Contractor's receipt of FedEx's specific request that it remain uncovered and if the Contract Documents did not restrict the covering of that portion of the Work, Contractor will be entitled, to the extent provided in Sections 3.03 and 3.04, to an adjustment to the Substantial Completion Deadline and the Task Fee applicable to the Site at which the covered portion of the Work is located, except as provided to the contrary below. If, however, the designated portion of the Work was covered contrary to FedEx's prior request that it remain uncovered or contrary to the express requirements of the Contract Documents or FedEx's inspection reveals that the designated portion of the Work is defective, Contractor will not be entitled to any adjustment to the applicable Substantial Completion Deadline or the applicable Task Fee by reason of the uncovering or restoration of the designated portion of the Work. If FedEx's designees discover any defective Work by reason of any such inspection, FedEx shall report it to Contractor.

(b) If the Contract Documents, FedEx's written instructions, or applicable Legal Requirements require that special tests or inspections be conducted with respect to any of the Work, Contractor shall notify FedEx of its readiness for inspection and testing and, if a public authority, rather than FedEx, will perform the test or inspection, the date set for such test or inspection. FedEx shall make its inspections promptly and, where practicable, at the source of supply. If Contractor or any Subcontractor covers any of the Work without the approval or consent of FedEx or any public authority having jurisdiction over the Work, Contractor shall cause it to be uncovered for examination, at Contractor's expense, if required by FedEx or the public authority.

(c) If testing procedures or inspections reveal any defective Work, Contractor shall correct it promptly and shall pay all costs made necessary by the defect, including, without limitation, the cost of repeated testing procedures or inspections and any increase in compensation that FedEx must pay to consultants, such as architects or engineers, by reason of the defect or the additional testing or inspections.

ARTICLE 13

PERMITS, LICENSES, LAWS AND REGULATIONS

Section 13.01. Contractor to Secure All Permits. Contractor shall secure and maintain in force throughout the performance of the Work all permits and licenses necessary for the lawful and proper performance of the Work. Contractor shall pay the fees required for all permits and licenses necessary for the lawful and proper performance of the Work and invoice FedEx as provided in Exhibit C-1.

Section 13.02. Contractor's Responsibilities. Contractor shall give all notices required by virtue of, and shall familiarize itself with, and shall comply with, all Legal Requirements applicable to the Work. If a Site is a Special Restriction Site, Contractor shall also fully and punctually perform the obligations, or observe the restrictions, set forth in the attached **Exhibit F**, each of which obligations and restrictions arise by virtue of the provisions of the Lease for the Special Restriction Site corresponding to that obligation or restriction, as designated in **Exhibit F**. If Contractor believes that any of the Contract Documents are at variance with any Legal Requirement, it shall promptly notify FedEx in writing and seek appropriate changes to the Contract Documents. If Contractor fails to give such notice or performs, or permits any Subcontractor to perform, any of the Work in contravention of any Legal Requirement, Contractor shall correct the defective Work without any adjustment in the Contractor's Fee and shall indemnify and hold FedEx harmless from and against any resulting fines, penalties, judgments or damages, including reasonable attorney's fees, imposed on or incurred by FedEx. In connection with the Work, Contractor may not confer, or promise to confer, on any governmental, public or quasi-public official having any authority or influence over the Work any payment, loan, subscription, advance, deposit of money, services or other item of value. In connection with the Work, Contractor may not accept from, or offer to, any person or entity, including, without limitation, any of its Subcontractors, consultants, or suppliers or manufacturers of Materials, any bribes or kick-backs.

Section 13.03. Environmental Law Compliance. Without intending to limit the generality of Section 13.02, Contractor shall comply with, and shall cause each Subcontractor to comply with, all Environmental Laws (as defined in Section 13.10) in connection with the performance of the Work. Contractor shall not use any Material in connection with its performance of the Work, or incorporate into the Work any Material, that Contractor knows is then a Hazardous Material, except to the extent use of any Hazardous Material is normal and customary in the performance of construction work similar to the Work, and then only to the extent that the use of that Hazardous Material occurring in connection with the Work complies strictly with all applicable Environmental Laws.

Section 13.04. Contractor's Responsibility for Environmental Conditions. Except as expressly set forth in this Article 13, Contractors, its Subcontractors and the respective directors, officers, shareholders, employees and agents of Contractor and its Subcontractors will have no liability or responsibility for Environmental Conditions (as defined below), or for any remediation or mitigation of Environmental Conditions. The term "**Environmental Conditions**" means the presence on, in, or under, or migrations to or from, a Site of any Hazardous Material in concentrations that exceed any effective cleanup standards that Environmental Laws establish, whether occurring in ambient air, surface water, groundwater, land surface or subsurface strata.

Section 13.05. Health and Safety Plan. Contractor shall formulate and implement a health and safety plan (the "**Health and Safety Plan**") that is reasonable in light of any known Environmental Conditions and that complies with all applicable laws, ordinances, rules and regulations, including, without limitation, the Occupational Health and Safety Act and the regulations promulgated on the authority of that Act. Contractor shall cause its workers and those of its Subcontractors engaged in the Work to comply with the Health and Safety Plan. Moreover,

if, during the Work, Contractor or any of the Subcontractors discover an Environmental Condition, Contractor shall take reasonable measures to protect, and shall cause the Subcontractors to take reasonable measures to protect, their respective workers from exposure to the newly discovered Environmental Condition and shall give to FedEx's Representative oral notice via telephone of the discovery of that Environmental Condition on the date of the discovery and shall confirm that notice in writing within one (1) business day after the date of the discovery. Unless FedEx specifically concurs with another course of action by means of written notice delivered to Contractor, Contractor shall discontinue work in the vicinity of the area affected by the newly discovered Environmental Condition pending FedEx's or the appropriate Landlord's investigation of the discovery and the completion of any remediation that Environmental Laws require FedEx or the appropriate Landlord to undertake with respect to that Environmental Condition or that FedEx or the appropriate Landlord elects to undertake. Moreover, if the potential risk to human health that a newly discovered Environmental Condition warrants, Contractor may discontinue in its reasonable discretion all work on the Site pending FedEx's or the appropriate Landlord's investigation of the discovery and the completion of any remediation that Environmental Laws require FedEx or the appropriate Landlord to undertake with respect to that Environmental Condition or that FedEx or the appropriate Landlord elects to undertake. Delay in the performance of the Work attributable to that investigation or additional remediation will constitute Excusable Delays for purposes of this Agreement. Contractor must promptly make appropriate adjustments to the Health and Safety Plan to reflect the discovery of the additional Environmental Condition.

Section 13.06. Additional Reports. Promptly following its receipt of any additional reports that pertain to Hazardous Material on a Site or any correspondence from the United States Environmental Protection Agency or any other governmental authority having jurisdiction over the environmental condition of a Site that pertain to a Site and that might affect the manner in which Contractor prosecutes the Work, FedEx shall furnish copies of those reports or correspondence to Contractor.

Section 13.07. Testing of Fill. If the Work requires Contractor or any Subcontractor to import fill material to a Site, Contractor may not take, and may not permit any of its Subcontractors to take, any fill material from a source for use at the Site until Contractor causes samples from that source to be analyzed for the presence of Hazardous Material and furnishes to FedEx reports that the testing consultant prepares and that reflect that the samples are free of Hazardous Material. For purposes of this Section 13.07, "fill material" means dirt, soil, sand or other earth that is obtained from sources outside the Site and that is used to fill holes or depressions, create mounds or otherwise artificially change the grade or elevation of the Site. FedEx must approve the testing consultant and laboratory that Contractor engages to take and analyze the samples. FedEx must also approve the number of samples that Contractor's testing consultant takes at the borrow source and the locations at which those samples are taken. FedEx may not unreasonably withhold any approval required by virtue of this Section 13.07. If the source from which Contractor or its Subcontractor proposes to take fill required at the Site is a commercial aggregate borrow source, the delivery to FedEx of environmental certifications provided by the operator of that source will satisfy the foregoing requirement for the furnishing of testing reports to FedEx. Any report or certification furnished to FedEx in accordance with the terms of this Section 13.07 must reflect that the samples were tested for the presence of volatile organic compounds ("VOCs"), total

metals, polynuclear aromatics ("**PNAs**"), polychlorinated biphenyls ("**PCBs**") and total petroleum hydrocarbons ("**TPH**").

Section 13.08. Contractor Indemnification. Contractor shall indemnify, defend and hold FedEx and its directors, officers, shareholders, employees and agents harmless from and against all liability, damages, losses, expenses, demands, claims, suits or judgments, including reasonable attorneys' fees and expenses, that may be asserted against, or sustained by, any of the indemnified parties by reason of (i) any Environmental Condition that Contractor, the Subcontractors, the respective agents and employees of Contractor and the Subcontractors, or any other person for whose acts or omissions any of the foregoing persons or entities may be responsible during the performance of the Work causes, or (ii) Contractor's failure to perform the obligations it undertakes under the terms of this Article 13.

Section 13.09. Survival of Indemnities. The indemnities set forth in this Article 13 will survive the completion of the Work and any termination of this Agreement.

Section 13.10. Definition of Environmental Laws. The term "**Environmental Laws**" means all laws, statutes, regulations, rules, ordinances, codes, license and permit requirements, and orders of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, the several States and political subdivisions within the States, and all applicable judicial and administrative and regulatory decrees, judgments and orders, including, without limitation, common law rulings and determinations, (whether now existing or later enacted or promulgated) that relate to injury to, or the protection of, real or personal property or human health (except those requirements that, by definition, are solely the responsibility of employers) or the environment (defined to mean soil, surface waters, ground waters, land, stream sediments, surface or subsurface strata and ambient air), including, without limitation, all valid and lawful requirements of courts and governmental agencies that pertain to reporting, licensing, permitting, investigation, remediation and removal of emissions, discharges, releases or threatened releases of chemical substances, petroleum or petroleum products, pollutants, contaminants or hazardous or toxic substances, materials or wastes (whether solid, liquid or gaseous in nature) into the air, surface water, ground water or land, or that relate to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants or hazardous or toxic substances, materials or wastes (whether solid, liquid or gaseous in nature).

Section 13.11 Definition of Hazardous Material. The term "**Hazardous Material**" means any substance:

- (i) the presence of which requires or may later require notification, investigation or remediation under any Environmental Law; or
- (ii) that is or becomes defined as a "hazardous waste", "hazardous material", "hazardous substance", "pollutant" or "contaminant" under any Environmental Law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Resource Conservation

and Recovery Act (42 U.S.C. §6901 et seq.) and the associated regulations; or

- (iii) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any state of the United States, or any political subdivision within any state; or
- (iv) the presence of which on a Site causes or threatens to cause a nuisance on the Site or to adjacent properties or poses or threatens to pose a hazard to the Site or to the health or safety of persons on or about the Site; or
- (v) that contains gasoline, diesel fuel or other petroleum hydrocarbons or volatile organic compounds; or
- (vi) that contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or
- (vii) that contains or emits radioactive particles, waves or material, including, without limitation, radon gas.

Section 13.12. Permits for Installation of Air Emission Sources. If the Project includes the furnishing or installation of (i) a boiler with a heat input rate equal to or greater than 1,000,000 BTU per hour, (ii) a degreaser or parts washer with a capacity of two or more gallons (seven and six-tenths liters) that utilizes a solvent with a volatile organic compound (“**VOC**”) content equal to or greater than five percent (5%), (iii) an emergency generator of 250 or more horsepower (or, if the Site is located in California, any stationary, piston-type internal combustion engine over 50 horsepower), (iv) a storage tank for organic fluids with a capacity equal to or greater than 1,000 gallons (or, if the Site is located in California, a storage tank for organic fluids with a capacity equal to or greater than 250 gallons) (v) a paint booth or any equipment for paint and coating operations, (vi) a fueling station, (vii) refrigeration or cooling units with a maximum charge or 50 pounds or more or a capacity of one ton (12,000 BTU per hour) or more, or (viii) portable engines, such as mobile generators or trailer-mounted air conditioners, and applicable Environmental Laws require the issuance by a state or local air pollution control agency of a construction permit in connection with that installation, Contractor shall obtain that permit before beginning the installation of that air emission source. If applicable Environmental Laws do not require the issuance by a state or local air pollution control agency of a construction permit in connection with that installation, Contractor shall provide written confirmation of that fact to FedEx before beginning the installation of the air emission source. If, in accordance with the foregoing, Contractor obtains a construction permit, Contractor shall also timely convert that permit to an operating permit upon completion of the installation of the air emission source. If any permit that Contractor must seek in accordance with the foregoing will establish any conditions that will affect the manner in which FedEx conducts its business operations at a Site following the completion of

the Task for that Site, Contractor must secure FedEx's written consent to those conditions before accepting the issuance of the permit. Contractor shall furnish FedEx with a copy of each permit that Contractor obtains in accordance with the terms of this Section 13.12 promptly following Contractor's receipt of the permit. The parties do not intend the terms of this Section 13.12 to affect the generality of the foregoing provisions in this Article 13.

ARTICLE 14 TAXES

Section 14.01. Transaction Taxes. (a) Unless otherwise provided in this Section 14.01, Contractor shall pay all taxes, excises, duties and assessments in the nature of sales, use or similar taxes ("Transaction Taxes") that arise out of, or are related to, the Work and that any government or agency having jurisdiction over the Work properly levies, assesses or imposes on Contractor. Contractor shall cooperate, and shall cause the Subcontractors to cooperate, with FedEx in determining which elements of the Work constitute the delivery of tangible personal property to FedEx, which elements constitute the improvement to real property, and which elements constitute non-taxable services. With each Application for Payment that Contractor submits in accordance with the terms of this Agreement, Contractor shall furnish to FedEx, for each jurisdiction in which any portion of the Work covered by the Application occurred and in the form of the attached Exhibit C-3 or such other form that FedEx prescribes, a description of the Materials purchased and that portion of the Work accomplished in that jurisdiction during the period covered by the Application and a statement of the corresponding amount of Transaction Taxes paid or payable in respect of those purchases and that portion of the Work and the taxing authorities to which each portion of the Transaction Taxes shown on that statement are payable (the "Transaction Tax Statement"). Each Transaction Tax Statement must separately state which elements of the Work constitute the delivery of tangible personal property to FedEx, which elements constitute the improvement to real property, and which elements constitute non-taxable services.

(b) With respect to any portion of the Work that FedEx has determined constitutes the delivery of tangible personal property or a taxable real property service, Contractor shall issue, at FedEx's direction and if permitted by applicable Legal Requirements, a sale for resale or exemption certificate to its supplier or Subcontractor and may not pay any Transaction Taxes to its supplier or Subcontractor with respect to that portion of the Work. In that case, Contractor shall separately state on its Applications for Payment, and collect from FedEx, and remit to the proper taxing authority, the collected Transaction Taxes as and when applicable Legal Requirements require. Any amounts that Contractor collects from FedEx on the authority of the preceding sentence will constitute a payment on account of, and a concurrent reduction in the amount of, the unpaid balance of the Contractor's Fee. Contractor and FedEx shall cooperate in the preparation and filing of any tax returns.

(c) If applicable Legal Requirements require Transaction Taxes payable in respect of any Task to be paid to a state other than the state in which the Site where that Task is performed is located, Contractor shall cooperate with FedEx in determining the amount of any credit against the Transaction Taxes of the state in which the Site where that Task is performed is located that may be available by reason of that payment.

(d) In its sole discretion and at its expense, FedEx has the right, either before or after payment of any Transaction Taxes to the proper taxing authority, to contest the validity or application of those Transaction Taxes. Upon the written request and at the expense of FedEx, Contractor shall fully cooperate with FedEx in contesting or protesting the validity or application of those Transaction Taxes. That cooperation will include, but not be limited to, permitting FedEx to proceed in Contractor's name if required or permitted by law, as long as the contest does not involve, or can be separated from, the contest of any Transaction Taxes or issues unrelated to the transactions described in this Agreement. FedEx also has the right to participate in any contest Contractor conducts with respect to any Transaction Taxes or other charge included within the scope of the indemnity set forth in Section 14.01(e) below, including, without limitation, the right to attend conferences with the taxing authority and the right to review submissions to the taxing authority or any court to the extent the contest does not involve, or can be separated from, the contest of any tax or other issues unrelated to the transactions described in this Agreement. If, in accordance with the terms of this Agreement, FedEx pays any Transaction Taxes that are not treated as a payment on account of, and a concurrent reduction in the amount of, the unpaid balance of the Contractor's Fee and if Contractor receives a refund of any part of those Transaction Taxes, Contractor shall promptly remit the amount of the refund to FedEx, after deducting any reasonable expenses that Contractor reasonably incurred in connection with the contest of the validity or application of those Transaction Taxes and that FedEx has not previously reimbursed to Contractor.

(e) Contractor shall indemnify, defend and hold FedEx and its officers, directors and employees harmless from all Transaction Taxes for which Contractor assumes responsibility in this Section 14.01. The payment of any penalties or interest associated with Contractor's failure to timely pay any Transaction Taxes to the proper taxing authority in accordance with the terms of this Agreement and any applicable Legal Requirements will be Contractor's responsibility unless FedEx's direction to Contractor in accordance with this Section 14.01 or FedEx's failure to timely make a progress payment in accordance with the terms of this Agreement causes that failure.

Section 14.02. Contractor Taxes. (a) In addition to Transaction Taxes, Contractor shall pay all taxes, excises, duties and assessments ("Contractor Taxes") (i) that arise out of Contractor's performance of the Work and that any governmental or quasi-governmental authority or any agency of any such authority having jurisdiction over any Site and any Task levies, assesses or imposes, including, without limitation, taxes and contributions that Legal Requirements require for employment insurance, pensions, old age retirement funds or similar purposes, (ii) that are based upon Contractor's gross receipts or net income or that are similarly based, or (iii) that are imposed on Contractor for the privilege of doing business or exercising a franchise or that are similarly based.

(b) Unless Contractor is contesting in good faith the validity of any Contractor Taxes or its application to the Work, Contractor shall promptly pay and discharge when due under applicable Legal Requirements all Contractor Taxes, together with any interest and penalties. If a taxing authority levies, assesses or imposes any Contractor Taxes upon FedEx, FedEx will notify Contractor and Contractor shall promptly pay and discharge such Contractor Taxes.

(c) Contractor shall indemnify and hold FedEx and its officers, directors and employees harmless from all Contractor Taxes.

ARTICLE 15
SHOP DRAWINGS AND SAMPLES;
MATERIAL TESTING

Section 15.01. Definitions. (a) As used in this Agreement, the term "**Shop Drawings**" means drawings, diagrams, illustrations, schedules, performance charts, brochures and other data that Contractor or any Subcontractor prepare and that illustrate a portion of the Work.

(b) As used in this Agreement, the term "**Samples**" means physical examples that Contractor furnishes to illustrate materials, equipment or workmanship.

(c) Contractor shall provide Shop Drawings and Samples at FedEx's reasonable request.

Section 15.02. Submission Schedule. Within one (1) week after the Effective Date, Contractor shall provide FedEx with a schedule for submission of Shop Drawings and Samples. The sequence of submissions must permit an orderly review by FedEx, and the schedule must allow reasonable time for FedEx's review according to the number and complexity of Shop Drawings or Samples in each submission. The schedule must allow not less than seven (7) business days for FedEx to review a Shop Drawing or Sample.

Section 15.03. Submissions. (a) Contractor shall review, stamp with its approval and submit (through Procore or another cloud-based construction management platform mutually agreed-upon by the Parties) in accordance with the approved submission schedule properly identified Shop Drawings and Samples that the Contract Documents require or that FedEx otherwise requires.

(b) By approving and submitting Shop Drawings and Samples, Contractor represents that it has verified all field measurements, field construction criteria, materials, catalog numbers and other data and that it has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and the Contract Documents.

Section 15.04. FedEx's Review. (a) FedEx or its agent will review submitted Shop Drawings and Samples promptly so as to cause no unreasonable delay in the Work, but FedEx will conduct its review solely for the purpose of determining the extent of conformity with the design concept of the Work and the information in the Contract Documents. FedEx's review of a Shop Drawing or Sample will not indicate approval of an assembly in which the item depicted functions.

(b) Review of Shop Drawings or Samples by FedEx will not relieve Contractor of responsibility for any deviation from the requirements of the Contract Documents unless Contractor has informed FedEx in writing of such deviation at the time of submission and FedEx has acknowledged the specific deviation. Further, FedEx's review will not relieve Contractor from responsibility for subsequently discovered errors or omissions in the Shop Drawings or Samples.

Section 15.05. Corrections. Contractor shall make any corrections FedEx requires and shall resubmit the required number of corrected Shop Drawings or new Samples until FedEx (through Procore or another cloud-based construction management platform mutually agreed-upon by the Parties) advises Contractor that it has completed its review of the submission.

Section 15.06. Prior Review Required. Contractor may not commence any portion of the Work requiring submission of a Shop Drawing or Sample until FedEx has completed its review of the submission. Contractor shall perform all such portions of the Work in accordance with the reviewed Shop Drawings and Samples and the Contract Documents.

Section 15.07. Material Testing. (a) At its option, FedEx may accept the manufacturer's certified mill or laboratory certificate in lieu of special testing of Materials, with respect to which the Contract Documents require testing, or it may require a certificate from a recognized commercial testing laboratory satisfactory to it certifying that the Materials have been tested within a period acceptable to FedEx and that they conform to the requirements of the Contract Documents.

(b) FedEx may require that Contractor make actual tests of any products or Materials and submit a report on the results of those tests through Procore or another cloud-based construction management platform mutually agreed-upon by the Parties. A recognized testing laboratory satisfactory to FedEx must make those tests. Unless FedEx agrees otherwise, Contractor may not seek an adjustment in the Contractor's Fee for the cost of tests required to determine the suitability of items that Contractor proposes in substitution for items specified in the Contract Documents.

ARTICLE 16 FEDEX'S RIGHT TO AUDIT

Section 16.01. Right of Audit. Contractor shall keep in its records copies of all submittals, correspondence, minutes, memoranda, tape recordings, videotapes, accounting records, and other writings or things that document the Project, including, without limitation, full and accurate records of all costs incurred and items billed in connection with the Work. Those records will be open to audit by FedEx or its authorized representatives during the period commencing on the Effective Date and ending on the date that is three (3) years after the date on which FedEx makes Final Payment on account of the last of the Tasks Contractor completes or on such later date through which applicable Legal Requirements or good construction industry practice requires the retention of such records. Moreover, if Contractor receives notification of a dispute, or the commencement of litigation, regarding the Project prior to the expiration of the period during which its records are subject to FedEx audit in accordance with the foregoing, Contractor shall continue to keep its records regarding the Project beyond the period described above until final resolution of the dispute or litigation. In addition, Contractor shall include in each Subcontract a requirement to maintain records regarding the Project and make them available for FedEx's audit that is the same as that set forth above. Contractor's failure to include such a requirement in a Subcontract, work order, purchase order, or similar document between Contractor and a Subcontractor will be an Event of Default and grounds for FedEx's immediate termination of this Agreement. In connection with any audit FedEx conducts on the authority of this Section 16.01,

FedEx's auditor may make, and take away, copies of any of the records it audits subject to the operation of Section 16.02 below.

Section 16.02. Confidentiality of Audit Information. FedEx acknowledges that certain of Contractor's valuable, confidential and proprietary information may come into FedEx's possession during the course of an audit that FedEx undertakes on the authority of this Article 16. FedEx must hold all information that it obtains from or about Contractor in the course of an audit and that Contractor designates as "confidential" by delivering written notice to FedEx in strictest confidence and must not use that information other than in connection with the administration of this Agreement and the resolution of any dispute that may arise between FedEx and Contractor in connection with the Project. FedEx must also cause its employees and its authorized representatives to be bound by the same obligation of confidentiality as that which FedEx undertakes under the terms of this Article 16. Without Contractor's prior written consent, FedEx may not communicate any audit information that Contractor has designated as "confidential" in any form to any third party. If FedEx breaches its obligations under the terms of this Section 16.02, Contractor may seek preliminary and permanent injunctive relief and an equitable accounting of all profits or benefits FedEx derived by virtue of its breach in addition to any other remedy available to it at law or in equity. The foregoing obligations and restrictions do not apply to (i) information that, at the time of disclosure, was already known to FedEx and with respect to which Contractor had not previously imposed any restrictions on the disclosure or use of that information, (ii) information that is publicly known or is later made public through no fault of FedEx, (iii) information that FedEx independently develops from sources other than Contractor and its Subcontractors, (iv) information that FedEx receives free of restriction on disclosure from another source that has the right to furnish the information to FedEx, (v) information that Contractor approves for release, (vi) information that FedEx must disclose by virtue of the operation of any statute, regulation or order of any court, legislative body, or administrative agency, or (vii) information that FedEx must disclose in order to be able to exercise any right that it has under the terms of this Agreement or to enforce any obligation that Contractor has under the terms of this Agreement. FedEx must give Contractor advance notice of its intent to disclose any information of the nature described in division (vi) above at least two (2) business days in advance of that disclosure.

ARTICLE 17 SEPARATE CONTRACTS

Section 17.01. FedEx's Right to Award Separate Contracts. FedEx reserves the right to award other contracts ("**Separate Contracts**") in connection with work at or in the vicinity of any Site and Contractor agrees to cooperate fully and not to unreasonably interfere with the work of such other contractors ("**Separate Contractors**").

Section 17.02. Cooperation. Contractor shall afford FedEx's Separate Contractors the opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with their work. Contractor shall permit the use of temporary facilities (excluding personal trailers and trash hauling), sanitary facilities and temporary construction water supply (as distinguished from drinking water supplies) by Separate Contractors to the same extent as are available to Subcontractors, at no additional cost

to FedEx or the Separate Contractors; Contractor will not be responsible, however, for supervision or management of any Separate Contractor's work or the safety of any Separate Contractor while performing its work.

Section 17.03. Inspection of Separate Contractor's Work. If any part of the Work depends for proper execution or results upon the work of any of FedEx's Separate Contractors, Contractor shall inspect and promptly report to FedEx any discrepancies or defects in that work that render it unsuitable for proper execution or results. Failure of Contractor to inspect and report as required above will constitute an acceptance of the Separate Contractor's work as fit and proper to receive the Work.

Section 17.04. Responsibility For Damage. Contractor must not damage, and must not permit damage to, any Site, including, without limitation, the work or property of Separate Contractors, monuments, stakes, bench marks and other survey points, utility features, and existing features or structures on the Site. If any such damage not involving the work or property of Separate Contractors occurs, Contractor shall promptly rectify it at Contractor's expense. If Contractor causes damage to the work or property of any of FedEx's Separate Contractors, Contractor shall settle with the Separate Contractor by agreement or arbitration if the Separate Contractor is amenable to settlement in that manner. If the Separate Contractor sues FedEx for any damages that it alleges it sustained by reason of Contractor's fault, FedEx shall notify Contractor, who shall defend such suits at its own expense and without any adjustment in the Contractor's Fee. Contractor shall satisfy any resulting judgment and shall reimburse FedEx for all reasonable attorneys' fees and court costs that FedEx may incur as a result of such suit.

Section 17.05. Effect of Separate Contractor Interference. If any Separate Contractor interferes with Contractor's performance of the Work or fails to conform to Contractor's reasonable directions with regard to the progress of the Work, or employs labor or uses material or equipment that disrupts Contractor's performance of the Work and, as a result, delay in the performance of the Work occurs or Contractor incurs additional cost, the relevant Substantial Completion Deadline and the relevant Task Fee will be subject to adjustment in accordance with the terms of Sections 3.03 and 3.04.

ARTICLE 18 CONTRACTOR'S WARRANTIES

Section 18.01. Warranty of Title. Contractor warrants to FedEx that (i) title to all Work, including Materials, covered by an Application for Payment (in the form of the attached **Exhibit C-2**) will pass to FedEx upon Substantial Completion, free and clear of all liens, claims, security interests or encumbrances ("**Liens**").

Section 18.02. Special Warranties. When the Contract Documents require special guaranties or warranties for specific parts of the Work, Contractor shall provide those guaranties or warranties to FedEx.

Section 18.03. Assignment of Warranties. Contractor assigns to FedEx all assignable warranties of manufacturers and suppliers (other than Contractor) of Materials and Services used

in the performance of the Work. At FedEx's request, Contractor shall assist in enforcing FedEx's rights arising under those warranties.

Section 18.04. General Warranties. (a) In addition to any special guaranties or warranties that the Contract Documents require, Contractor warrants to FedEx that all Materials furnished in the performance of the Work will be new unless otherwise specified and that any Work will be of good quality, free from faults and defects and in conformance with or permitted under the Contract Documents. All Work not conforming to these standards will be defective.

(b) If, within the period that expires one (1) year after each Substantial Completion Date (or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee or warranty that the Contract Documents require), FedEx finds any Task corresponding to a Substantial Completion Date to be defective, Contractor shall provide at its expense all labor and material necessary to correct it promptly after receipt of a written notice from FedEx. This Section 18.04(b) does not establish a limitations period with respect to Contractor's obligations under this Agreement. The foregoing one-year time period relates only to Contractor's specific obligation to correct the Work and has no relationship to the time within which FedEx may enforce Contractor's contractual obligations under this Agreement, nor to the time within which FedEx must commence proceedings to establish Contractor's liability with respect to any of its contractual obligations arising under the terms of this Agreement.

(c) Contractor shall schedule a walk-through inspection of each Site for a date approximately one-month prior to the expiration of each warranty period described in Section 18.04(b) as it relates to that Site, shall notify FedEx and any necessary Subcontractors of the date of that inspection and request the participation of those parties in that inspection at least fifteen (15) business days in advance of the scheduled date, and shall otherwise coordinate and participate in that inspection. The purpose of the inspections will be to identify any defects in the Work at the Site that Contractor has not previously corrected, or caused to be corrected, in accordance with the terms of this Section 18.04.

(d) If Contractor fails or refuses to correct defective Work in accordance with the requirements of this Section 18.04, FedEx may correct it and hold Contractor liable for all reasonably necessary expenses and damages FedEx incurs as a result.

(e) In addition to the foregoing warranty, a fresh warranty period of one (1) year will apply, under the same terms and conditions as the original warranty, to any work, materials or design supplied in the correction of defective Work undertaken in accordance with the terms of this Section 18.04. That fresh warranty period will commence on the date FedEx accepts Contractor's original warranty work.

ARTICLE 19 FEDEX'S RIGHT TO DO WORK

Section 19.01. FedEx's Right to Do Work. If Contractor neglects to prosecute the Work properly or fails to do anything required by the Contract Documents and FedEx does not receive satisfactory assurance of due performance from Contractor within seven (7) business days after

the date on which FedEx makes written demand for such assurance, FedEx may make good any deficiencies in the Work without prejudice to any other remedy it may have under the terms of this Agreement or at law or in equity and deduct all costs of doing so, including, without limitation, all additional compensation that FedEx must pay to consultants, such as architects or engineers, in connection with its efforts to rectify the deficiency, from any payment then due or later becoming due to Contractor. If payments then due or later becoming due to Contractor are less than the costs FedEx incurs in making good any deficiencies in the Work, Contractor shall remit the difference to FedEx promptly following its receipt of FedEx's invoice.

Section 19.02. Correction of Work Before Final Payment. (a) Contractor shall promptly remove from any Site all Materials or other items that FedEx rejects as failing to conform to the Contract Documents, whether incorporated in the Project or not, and Contractor shall promptly replace and re-execute its original work to comply with the Contract Documents and may not seek an adjustment in the Contractor's Fee for the costs incurred in connection with that replacement and re-execution. In addition, Contractor shall bear the expense of repairing all work of FedEx's Separate Contractors that that removal or replacement damages and may not seek an adjustment in the Contractor's Fee for the costs incurred in connection with that repair.

(b) If Contractor does not remove rejected Materials or other items within a time that FedEx determines to be reasonable, FedEx may do so and store them at Contractor's expense. If Contractor does not pay the expense of that removal and storage within ten (10) business days after demand, FedEx may sell the items at auction or at private sale and shall account for the net proceeds of the sale after deducting all expenses of removal and storage that FedEx incurs.

ARTICLE 20 INSURANCE

Section 20.01. Contractor To Maintain Insurance. At all times during the performance of the Work, Contractor shall maintain in force the insurance described in the attached **Exhibit E** in the amounts and with the endorsements specified both in that Exhibit and elsewhere in this Article 20. None of the requirements as to types, limits or FedEx's approval of the insurance coverages that Contractor must maintain in force during the performance of the Work will limit, qualify or quantify in any manner the liability and obligations Contractor assumes under the Contract Documents or that applicable law would otherwise impose on Contractor.

Section 20.02. Contractor's Insurance Primary. Each insurance policy that Contractor maintains in accordance with the requirements of this Article 20 must be written as a primary policy and not contributing with, or in excess of, any insurance coverage that FedEx maintains.

Section 20.03. No Cancellation. Each insurance policy that Contractor maintains in accordance with the requirements of this Article 20 must be written by insurance companies authorized to do business in each state where a Site is located, must be in an industry-standard form and must contain an endorsement requiring the delivery of written notice to FedEx and any Lender that FedEx has designated by the delivery of written notice to Contractor (a "Designated Lender") at least thirty (30) days in advance of the date on which the insurer intends any cancellation, termination or change to become effective.

Section 20.04. Additional Insureds. Each liability insurance policy that Contractor maintains in accordance with the requirements of this Article 20 must name FedEx and any Designated Lender as additional insureds, and each property insurance policy that Contractor maintains in accordance with the requirements of this Article 20 must include an endorsement whereby the insurer acknowledges that any waiver or release of liability that an insured makes in favor of another party in advance of the occurrence of a loss giving rise to a claim under that policy will not adversely affect the coverage that the policy intends to afford or prejudice the right of the insured to receive proceeds in accordance with the terms of that policy.

Section 20.05. Insurance Certificates. Prior to commencement of the Work, Contractor shall furnish to FedEx and each Designated Lender certificates of insurance reflecting that each policy that the terms of this Article 20 requires is in force and that Contractor has paid the premium for the policy in full. At least fifteen (15) days in advance of the expiration of the term of each policy that Contractor maintains in accordance with the requirements of this Article 20, Contractor shall provide to FedEx and each Designated Lender a certificate evidencing the renewal of the policy. Each certificate that Contractor furnishes must be in the form of ACORD Form 25-S or such other form as FedEx may approve.

Section 20.06. FedEx-Provided Builder's Risk Insurance. Unless the attached **Exhibit E** provides to the contrary, FedEx shall maintain in force builder's risk property insurance that a company or companies authorized to do business in each jurisdiction in which a Site is located issues on a replacement cost basis. That insurance must insure the interests of FedEx, Contractor, the Subcontractors and Designated Lenders, as they respectively appear. FedEx must maintain that insurance in force until the earlier of the date on which FedEx makes Final Payment on account of the last Task that Contractor completes in accordance with the terms of this Agreement occurs or the date on which no person or entity other than FedEx has an insurable interest in the Project or until the insureds agree otherwise in writing. The initial amount of that insurance must be equal to the Contractor's Fee and FedEx must adjust the amount of that insurance contemporaneously with the execution of any Change Order or the delivery of any Construction Change Directive that affects or may affect the amount of the Contractor's Fee. FedEx must cause that insurance to be written on an "All Risk" policy form with no exclusion of coverage for theft, vandalism, malicious mischief, collapse, temporary buildings, debris removal or demolition occasioned by the enforcement of any applicable Legal Requirements. FedEx must cause that insurance to be written so that it provides coverage for damage to Materials stored at locations other than the Sites and for damage to Materials that are in transit. If damage occurs to the Project by reason of a peril covered under the policy of property insurance that FedEx maintains in force in accordance with the terms of this Section 20.06, FedEx shall pay to Contractor as the restoration of the Project progresses all reasonable costs that Contractor reasonably incurs in connection with the restoration except to the extent that the negligence or willful misconduct of Contractor, any of its Subcontractors or any of their respective employees or agents is the cause of the damage, in which case Contractor will be responsible for the amount of the deductible established under the terms of that policy. Moreover, if either (i) FedEx does not have in force the builder's risk insurance required by virtue of the terms of this Section 20.06 at the time that damage occurs to the Project or (ii) the damage occurs to the Project by reason of a peril identified as an excluded risk in the policy of property insurance that FedEx maintains in force in accordance with the terms of this Section 20.06, Contractor has no

obligation to incur any costs in connection with the restoration of that damage unless FedEx makes a written commitment to pay to Contractor as the restoration of the Project progresses all reasonable costs that Contractor reasonably incurs in connection with the restoration of that damage.

Section 20.07. Waiver of Claims. Each party waives and releases, to the extent of the proceeds that are or would be payable to it in respect of the policies of property insurance that it maintains in force with respect to its property, all rights of recovery, claim, action or cause of action that it may now or later have against the other or the other's agents, officers and employees by virtue of any loss or damage that may occur to its property, including, without limitation, the structures on any Site and equipment used in the performance of the Work, as applicable, regardless of cause or origin, including, without limitation, the negligence of the other party or any of its respective representatives, agents, employees, contractors, subcontractors and invitees.

ARTICLE 21 BONDS

Section 21.01. Contractor's Bonds. Contractor shall furnish and keep in force throughout the performance of the Work a performance bond and a labor and material payment bond in the amount of the original Contractor's Fee identified in Section 4.01 of this Agreement. Each bond must name FedEx as an obligee and must be in an industry-standard form subject to FedEx approval as to form, which approval shall not be unreasonably withheld. Each bond must be executed by a surety that is authorized to do business and licensed to execute bonds as surety in each state in which a Site is located, that is listed in the Federal Register as a surety the United States Department of the Treasury has approved, and that FedEx approves. The Contractor's Fee includes the cost of those bonds.

ARTICLE 22 INDEMNIFICATION

Section 22.01. General Indemnification. Contractor shall indemnify, defend and hold FedEx and its officers, directors and employees harmless from and against all liabilities, damages, losses, expenses, demands, claims, suits or judgments, including reasonable attorneys' fees and expenses, that may be asserted against, or sustained by, any of them by reason of:

- (i) the death of or bodily injury to any person or the loss of, damage to or destruction of any property in any manner arising out of the willful misconduct or negligent acts or omissions of Contractor, the Subcontractors, the respective agents and employees of Contractor and the Subcontractors or any other person for whose acts or omissions any of the foregoing persons or entities may be responsible;
- (ii) Contractor's failure to perform fully and punctually any of the obligations it undertakes under the terms of this Agreement;

- (iii) the breach of any warranty or representation Contractor makes in this Agreement or any document Contractor delivers in accordance with the terms of this Agreement; or
- (iv) the failure or alleged failure of Contractor or any Subcontractor to make payments, when due, to its Subcontractors or other suppliers of equipment, labor or material required in connection with the Work, or the assertion by a Subcontractor or other supplier of a lien claim against FedEx's interest in any Site or the Work, or the exercise by the Subcontractor or other supplier of any other remedy on the basis of the alleged failure by Contractor or any Subcontractor to make those payments when due.

Contractor shall promptly give written notice to FedEx of the initiation of any action, administrative or legal proceeding, or investigation to which the foregoing indemnity may apply. In the case of matters falling within the scope of division (i) above, the foregoing indemnity will not be limited to damages, compensation or other benefits payable under the terms of insurance policies, workers compensation acts, disability benefit acts or other employee benefit acts and, to the fullest extent permitted by law, Contractor waives, insofar as its foregoing obligation to FedEx and its officers, directors and employees is concerned, any immunity or damage limitation that would otherwise be available to it by virtue of such workers compensation acts, disability benefit acts or other employee benefit acts.

Section 22.02. Labor Indemnity. Contractor shall indemnify, defend and hold FedEx harmless from and against (i) all administrative and judicial actions and judgments initiated or entered against FedEx in connection with any labor related activity arising from Contractor's performance of the Work and (ii) all losses and expenses that FedEx sustains or incurs by reason of any such action or judgment, including, without limitation, reasonable attorneys' fees. As used in this Agreement, "labor related activity" includes, without limitation, strikes, walk-outs, informational or organizational picketing, use of placards, distribution of hand-outs, leaflets or other similar acts at or in the vicinity of any Site or in the vicinity of any other facility where FedEx conducts business. FedEx shall advise Contractor if any labor related activity occurs and Contractor shall arrange for the legal representation necessary to protect FedEx's interest. FedEx's General Counsel must, however, approve the representation Contractor arranges.

Section 22.03. Royalties and Patents. Contractor shall pay all royalties and license fees in any way relating to the Work, shall defend all suits or claims for infringement of any proprietary rights arising from performance of the Work and shall indemnify, defend and hold FedEx harmless from loss on account of any such suit or claim.

Section 22.04. Survival of Indemnities. The indemnities set forth in this Article 22 will survive the making of Final Payment on account of the last Task that Contractor completes in accordance with the terms of this Agreement or any earlier termination of this Agreement.

ARTICLE 23
INTENTIONALLY OMITTED

ARTICLE 24
COMPLIANCE WITH LAWS

Section 24.01. Compliance with Laws. (a) To the extent applicable to it, Contractor shall comply with the affirmative action requirements applicable to contracts with government contractors as set forth in Title 41 of the Code of Federal Regulations and the Immigration and Reform Act of 1986.

(b) Contractor shall employ, and shall permit its Subcontractors to employ, only persons who are legally authorized to work in the United States and to have, and to cause its Subcontractors to have, an I-9 employment authorization form, if required, for each person they respectively employ.

(c) Contractor shall indemnify, defend and hold FedEx and its officers, directors and employees harmless from and against all claims, demands, actions, administrative proceedings, liabilities, and judgments arising from the failure of Contractor or any of its Subcontractors to comply with the provisions of this Section 24.01 and all losses and expenses FedEx sustains or incurs by reason of those claims, demands, actions, administrative proceedings, liabilities and judgments, including, without limitation, reasonable attorneys' fees.

ARTICLE 25
DEFAULT; FEDEX'S RIGHT TO TERMINATE

Section 25.01. Events of Default. (a) If any of the following events of default (the "**Events of Default**") occur, the aggrieved party may terminate this Agreement in whole or in part at its option:

- (i) If either party fails in the full and punctual payment of any sum due to the other and that failure continues for more than fifteen (15) business days after the defaulting party's receipt of written notice that the payment is late;
- (ii) If either party fails in the performance of any obligation that it undertakes under the terms of this Agreement and that involves more than the payment of money to the other party and that failure continues for more than ten (10) business days after the defaulting party's receipt of written notice from the other party;
- (iii) If either party makes a misrepresentation to the other in this Agreement or in any document that it must deliver to the other in accordance with the terms of this Agreement and fails to rectify the misrepresentation for more than ten (10) business days after the misrepresenting party's receipt of written notice from the other party;
- (iv) If either party files a voluntary petition in bankruptcy; files any petition or answer seeking organization, composition, readjustment, liquidation or

similar relief for itself under any present or future statute, law or regulation of the United States; seeks, consents to, or acquiesces in, the appointment of any trustee for a substantial portion of its assets; makes any general assignment for the benefit of creditors; or admits in writing its inability to pay its debts generally as they become due;

- (v) If creditors of either party file a petition against that party seeking any reorganization, composition, readjustment, liquidation or similar relief under any present or future statute, law or regulation of the United States and, notwithstanding efforts of the affected party to cause the petition to be dismissed or stayed, the petition remains effective for an aggregate period of sixty (60) days (whether or not consecutive); or, if any trustee, receiver or liquidator of the affected party is appointed in connection with the petition, that appointment remains effective for an aggregate period of sixty (60) days (whether or not consecutive), notwithstanding efforts of the affected party to cause the appointment to be vacated or stayed;
- (vi) If a court of competent jurisdiction enters an order for relief in any proceeding initiated by or against either party in accordance with any present or future statute, law or regulation of the United States pertaining to bankruptcy or the reorganization, composition, adjustment or liquidation of the debts and obligations of debtors; or
- (vii) If Contractor or any officer or principal owner of Contractor is indicted for a felony.

No termination accomplished in accordance with the foregoing will constitute an election of remedies.

(b) Upon the occurrence of an Event of Default by Contractor, FedEx may terminate this Agreement without prejudice to any other remedy available to FedEx by giving Contractor written of the Event of Default and the right to cure within ten (10) business days from Contractor's receipt of a written notice of an Event of Default, which notice shall provide an adequate description of the Event of Default and FedEx's requirements to cure the alleged default. In the event that Contractor fails to cure the alleged default within the cure period provided herein, FedEx shall give Contractor written notice at least seven (7) days in advance of the effective date of the termination. Upon that termination, FedEx may take possession of all or some of Contractor's materials, tools, equipment and appliances and complete the Work by such means as FedEx determines to be appropriate. Upon the termination, FedEx may withhold all further payment from Contractor until the Work is fully completed. If the aggregate amount of the Contractor's Fee not previously disbursed to Contractor exceeds the aggregate of (i) the expense to FedEx of completing the Work, including compensation for additional managerial and administrative services, and (ii) FedEx's losses and damages arising from Contractor's default, FedEx shall pay the amount of that excess to Contractor. If the total of (i) the expense to FedEx of completing the Work and (ii) FedEx's losses and damages arising from Contractor's default exceeds the aggregate amount of the Contractor's Fee not previously disbursed to Contractor, Contractor shall pay the deficiency to

FedEx on demand, but FedEx's receipt of those monies will not constitute an election of remedies by FedEx.

(c) Upon the occurrence of an Event of Default by FedEx, Contractor may retain all sums that FedEx previously paid, but Contractor's retention of those sums will neither limit or impair rights Contractor may have as a result of FedEx's default nor constitute an election of remedies. Also, if an Event of Default by FedEx occurs and if FedEx fails to rectify the Event of Default within five (5) business days after the date on which Contractor delivers a second written notice in which it advises FedEx of its intent to stop the Work, Contractor may stop the Work until FedEx rectifies the Event of Default, subject to the limitation set forth below. Any stoppage of the Work that occurs on the authority of this Section 25.01(c) will constitute an Excused Delay. If, however, FedEx denies in good faith that an Event of Default on its part has occurred and initiates the dispute resolution procedures set forth in Article 26, Contractor's right to stop the Work will be suspended until the use of those procedures result in FedEx's acknowledgement that an Event of Default on FedEx's part had occurred or, if those procedures do not result in such an acknowledgement, until an appropriate judicial action results in a determination that an Event of Default on FedEx's part had occurred.

Section 25.02. FedEx's Right to Terminate without Cause. (a) FedEx may terminate this Agreement without cause at any time by giving Contractor written notice at least fifteen (15) days in advance of the date of termination specified in the notice. Upon receipt of that notice, Contractor must cease performance of the Work as soon as reasonably possible and must make every reasonable effort to mitigate its losses and damages. In that regard, Contractor must perform such acts as may be necessary to preserve and protect that part of the Work already performed. Upon a termination occurring in accordance with the terms of this Section 25.02, Contractor may retain all sums of money that FedEx has previously paid to it, and FedEx shall pay to Contractor:

- (i) all Retainages that are then being held in accordance with the terms of Section 4.03 and that Contractor would not have an obligation to remit to Subcontractors who are performing under the terms of Subcontracts, the assignment of which FedEx is accepting in connection with the termination of this Agreement;
- (ii) the amounts that have become due under the terms of Subcontracts, the assignment of which FedEx is accepting, and that FedEx has not previously remitted to Contractor;
- (iii) a final payment on account of the Contractor's Fee equal to the amount by which that portion of the Contractor's Fee allocable to that portion of the Work completed as of the effective date of the termination exceeds the sum of the amounts described in divisions (i) and (ii) above, the amount of the Retainages that FedEx does not have an obligation to remit by virtue of division (i) above, and the aggregate amount of the remittances that FedEx has previously made to Contractor on account of the Contractor's Fee;

- (iv) the aggregate amount that Contractor must pay to Subcontractors in connection with the termination of Subcontracts, the assignment of which FedEx is not accepting in connection with the termination of this Agreement; and
- (v) the aggregate amount of the costs that Contractor incurs in the demobilization of its personnel and equipment assigned to the Project.

FedEx need not remit that portion of the Retainages included among the amounts that it must pay to Contractor in accordance with the foregoing terms of this Section 25.02 until the date that is thirty (30) days after the date on which Contractor's performance of the Work ceases. FedEx shall assume Contractor's obligations under all Subcontracts, the assignment of which FedEx accepts in connection with the termination of this Agreement, and shall indemnify Contractor from all liabilities arising under the terms of those Subcontracts following FedEx's acceptance of the assignment. In that regard, FedEx, without Contractor's joinder, may direct the remittance of that portion of the Retainages that remain following the remittance to Contractor required by virtue of the foregoing terms of this Section 25.02 to the Subcontractors that will continue to perform portions of the Work, as and when retained amounts become due under the terms of their respective Subcontracts.

(b) Following the effective date of the termination, Contractor will have no further liability under the terms of this Agreement other than with respect to matters that occurred prior to the effective date of the termination or obligations that the parties agreed would expressly survive the termination of this Agreement. The provisions of this Section 25.02(b) will survive the termination.

(c) If FedEx attempts to terminate this Agreement in accordance with the terms of Section 25.01(b) and FedEx later acknowledges, or a panel of arbitrators or a court having jurisdiction over the parties finds in a final order that is not subject to appeal, that FedEx was not entitled to terminate this Agreement in accordance with the terms of that Section, the parties will treat that unauthorized attempt to terminate this Agreement as an election to terminate this Agreement in accordance with the terms of this Section 25.02.

Section 25.03. Assignment of Subcontracts. Contractor assigns to FedEx all of its interest in each Subcontract that now exists or that Contractor later executes in connection with the performance of any part of the Work. That assignment will be effective, however, only upon FedEx's acceptance in writing and only as to those Subcontracts that FedEx designates in writing. FedEx may accept that assignment at any time during the course of construction prior to Final Acceptance of the last of the Tasks that Contractor completes in accordance with the terms of this Agreement. Each Subcontract must provide that it is freely assignable by Contractor to FedEx and its assigns. Each such assignment by Contractor is part of the consideration to FedEx for entering into this Agreement with Contractor and may not be withdrawn prior to Final Acceptance of the last of the Tasks that Contractor completes in accordance with the terms of this Agreement.

Section 25.04. Assurance of Performance. If an Event of Default of the nature described in division (iii), (iv) or (v) of Section 25.01(a) occurs with respect to Contractor, FedEx may request

of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with that request within ten (10) days after the delivery of that request will entitle FedEx to terminate this Agreement and to pursue the remedies set forth in Section 25.01(b). Pending receipt of the requested adequate assurance and actual performance, FedEx may proceed with the Work with its own forces or with other contractors on a time and material or other appropriate basis and back-charge the cost it incurs against that portion of the Contractor's Fee that remains to be paid under the terms of this Agreement.

Section 25.05. Contractor's Responsibility upon Termination. If termination of this Agreement occurs in accordance with the terms of this Article 25, without regard to which party exercises the termination right, Contractor shall promptly do the following unless FedEx directs it to do otherwise by written notice:

- (i) immediately stop the Work;
- (ii) reduce its staff, services and outstanding commitments in order to minimize the cost of termination;
- (iii) terminate outstanding orders and Subcontracts other than those the assignment of which FedEx is accepting in connection with the termination;
- (iv) settle the liabilities and claims arising out of the termination of Subcontracts and orders;
- (v) transfer title to, and deliver to, FedEx that part of the Work that had been completed as of the effective date of the termination and, if paid for by FedEx, all Materials and contract rights that Contractor has acquired in the performance of the Work.

Moreover, if FedEx terminates this Agreement on the authority of this Article 25, Contractor shall also deliver to FedEx all records, including, without limitation, computer records and "as-built" drawings, that are in its possession and that of its agents and Subcontractors and that relate to the Work and all information that FedEx will need in order to be able to access and use those records.

Section 25.06. No Duty to Terminate. The right of either party to terminate this Agreement or to suspend the Work does not give rise to a duty to exercise that right for the benefit of the other party or any other person or entity.

ARTICLE 26 ALTERNATIVE DISPUTE RESOLUTION

Section 26.01. Alternative Dispute Resolution. (a) The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement and/or the Contract Documents ("**Dispute**") in the following manner:

- (i) Either party may give the other party written notice of a Dispute not resolved in the normal course of business. That notice must set forth the basis for the initiating party's claim and the documentation that the initiating party believes supports its claim. Project managers of both parties, at levels at least one step above the project personnel who have previously been involved in the dispute, will meet at a mutually acceptable time and place within ten (10) days after the date of the delivery of that notice and as often after that time as they reasonably deem necessary for the purpose of exchanging relevant information and attempting to resolve the dispute.
- (ii) If the project managers fail to resolve the Dispute within thirty (30) days after the date of delivery of the dispute notice, or if the project managers fail to meet within the ten-day period specified above, both parties will refer the dispute to executives, who have authority to settle the dispute. In connection with that referral, the project managers will promptly prepare and exchange memoranda, which state the issues in dispute and each party's position in the dispute, which summarize the negotiations that have taken place, and to which they attach all relevant documentation. Following the exchange, each party's project manager will furnish copies of both parties' position memoranda to the executive within that party's organization to whom the Dispute has been referred. The executives will meet for negotiations at a mutually agreed time and place within forty-five (45) days after the date of the delivery of the dispute notice.

(b) If any person involved in the meetings contemplated in Section 26.01(a) above wishes an attorney to accompany him or her to any of those meetings, that person will give written notice of that intention to the other party at least three (3) business days in advance of any meeting that the attorney will attend and the other party may also cause an attorney representing its interests to be present at each such meeting.

(c) Pending the conclusion of the meetings contemplated in Section 26.01(a) above, Contractor shall continue to perform the Work and FedEx shall continue to remit to Contractor any progress payment to which Contractor is entitled under the terms of this Agreement and that is not the subject of the dispute.

(d) If, following the referral of the matter to their senior executives, the parties fail to resolve the Dispute within sixty (60) days after the date of delivery of the dispute notice, either party may pursue any remedies available to it under the terms of this Agreement or at law or in equity. Until that time, neither party may file suit or otherwise initiate judicial proceedings in connection with the dispute between the parties except as provided in Section 26.01(f) below.

(e) The parties will treat the position memoranda as confidential and as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and the rules of evidence of any court having jurisdiction over the dispute.

(g) CONSEQUENTIAL DAMAGE WAIVER. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY TYPE OF INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST REVENUE AND LOST PROFITS, EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER ARISING UNDER THEORY OF CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE.

(h) Attorney's Fees. If either Party is required to commence proceedings including, without limitation, any binding arbitration to enforce the provisions of this Agreement, or to protect its interests in any manner arising under this Agreement, the party prevailing in such proceeding shall be entitled to reimbursement for all reasonable costs and expenses, including attorney's, consultant's, and expert's fees, incurred in connection with such proceeding. A prevailing party is a party that recovers at least seventy-five percent (75%) of its total claims related to a Dispute or is required to pay no more than twenty-five percent (25%) of the total claims related to a Dispute made against it. This provision shall not apply to a mediation commenced by either Party under this Agreement.

(i) The parties may extend any deadline specified in this Article 26 by mutual agreement.

(j) Either party may seek a preliminary injunction or other preliminary judicial relief, however, if, in that party's judgment, that action is necessary for the sole purpose of avoiding irreparable harm. Despite that action, the parties will continue to participate in good faith in the procedures set forth above. All applicable limitations periods will be tolled while the procedures specified above are pending. The parties will take all action appropriate to accomplish that tolling.

(k) The provisions of this Article 26 will survive any termination of this Agreement.

ARTICLE 27
INTENTIONALLY OMITTED

ARTICLE 28
MISCELLANEOUS

Section 28.01. Assignment. This Agreement inures to the benefit of and binds each of the parties and their respective successors and assigns, but, except as provided below, neither party may voluntarily assign or delegate the rights or duties arising under the terms of this Agreement without the prior written consent of the other party; FedEx, however, may assign all or any part of its rights and delegate all or any of its duties without Contractor's consent to (i) a corporation controlled by, controlling, or under common control with, FedEx, (ii) the surviving corporation in any merger or other corporate reorganization involving FedEx, or (iii) the purchaser of all or

substantially all of FedEx's assets. Without limiting the generality of the foregoing, Contractor may not assign its rights to any payments that become due to it under the terms of this Agreement without FedEx's prior written consent.

Section 28.02. Time Calculations. If the final day of any period within which a party must perform an obligation or within which an event must occur is a Saturday, Sunday or Legal Holiday, that period will be automatically extended to the next calendar day that is not a Saturday, Sunday or Legal Holiday. The term "Legal Holiday" means any holiday generally observed by financial institutions in Memphis, Tennessee. The term "days," as used in this Agreement, will mean calendar days unless the parties specified "business days" in the applicable provision.

Section 28.03. Section Headings and Captions. All section headings and captions used in this Agreement are purely for convenience and will not affect the interpretation of this Agreement.

Section 28.04. Exhibits. All Exhibits described in this Agreement are incorporated in and made a part of this Agreement, except that, if any inconsistency between this Agreement and the provisions of any Exhibit exists, the provisions of this Agreement will control. Terms used in an Exhibit and also used in this Agreement have the meanings established in this Agreement.

Section 28.05. Applicable Law. Excepting its conflicts of law principles, the laws of California will govern the interpretation and enforcement of this Agreement. To the extent necessary, the Parties agree to submit to the jurisdiction of any appropriate court within Los Angeles County, California for adjudication of disputes arising from this Agreement in accordance with and subject to Section 26 of this Agreement. The foregoing choice of jurisdiction is mandatory and not permissive in nature and precludes the possibility of, litigation or trial in any jurisdiction other than as specified above.

Section 28.06. Amendments. Except as otherwise provided to the contrary, the parties may modify this Agreement solely by means of written agreements signed on behalf of FedEx and Contractor by their respective authorized representatives.

Section 28.07. Entire Agreement. This Agreement supersedes all prior understandings, representations, negotiations and correspondence between the parties and constitutes the entire agreement between them with respect to the matters described in this Agreement, and no course of dealing, course of performance or usage of trade will modify or affect the terms of this Agreement.

Section 28.08. Legality of Provisions. The invalidity, illegality or unenforceability of any provision of this Agreement will not affect or impair the validity, legality and enforceability of the remaining provisions of this Agreement.

Section 28.09. No Waiver. The failure or delay of either party to insist in any one or more cases upon the strict performance of, or adherence to, any of the terms, covenants and conditions of this Agreement or to exercise any right or remedy contained in this Agreement will not be construed as a waiver or relinquishment by either for the future of such term, covenant or condition or such right or remedy. One or more waivers of the breach of any covenant, agreement or

condition by either party will not be construed as a waiver of a future breach of the same covenant, agreement or condition or of any other covenant, agreement or condition. Neither FedEx's inspection of the Work nor FedEx's failure to inspect the Work will release Contractor from any obligation it undertakes under the terms of this Agreement.

Section 28.10. Survival of Terms. The rights and obligations of the parties and, specifically, Contractor's obligations to indemnify FedEx will survive the completion of the Work, Final Acceptance of the last of the Tasks Contractor completes in accordance with the terms of this Agreement, the making of Final Payment on account of the last of the Tasks Contractor completes in accordance with the terms of this Agreement, and any termination of this Agreement.

Section 28.11. Public Release of Information. Contractor shall treat all information relating to the Project, including, without limitation, all information, documents and electronic media that FedEx supplies to Contractor and all information, documents and electronic media that Contractor prepares or causes to be prepared for the Project, as confidential and proprietary information of FedEx. Contractor shall obtain in each instance FedEx's prior written approval concerning the exact text and timing of news releases, articles, brochures, advertisements, prepared speeches and other information releases concerning this Agreement or the Work. Contractor shall also require all Subcontractors to observe the foregoing restrictions. FedEx has an unconditional right to use, for any purpose whatsoever, any information, documents or electronic media that Contractor prepares or causes to be prepared for the Project, free of any copyright claims, trade secrets or other proprietary rights.

Section 28.12. Counterparts. The parties may execute this Agreement in any number of counterparts and all the counterparts, taken together, will constitute a single agreement.

Section 28.13. Change Of Control. In addition to such other rights as FedEx may have, FedEx may immediately terminate this Agreement upon any change (i) in the ownership or voting control of fifty-one percent (51%) or more of the capital stock or assets of Contractor, if a corporation, or (ii) in the ownership of Contractor or its assets, if not a corporation. Contractor shall notify FedEx in writing at least thirty (30) days before any such change in control of Contractor's capital stock, business, or assets becomes effective.

Section 28.14. Financial Information. Within one hundred twenty (120) days after the end of each fiscal year of Contractor following the Effective Date of this Agreement, Contractor shall provide to FedEx a financial statement prepared with respect to its financial affairs in accordance with generally accepted accounting principles and audited by an independent, certified public accountant. In the absence of such audited financial statements, Contractor shall provide such financial information as FedEx reasonably requests

Section 28.15. Further Assurances. Each party will take such actions, provide such documents, do such things and provide such further assurances as the other party may reasonably request during the term of this Agreement for the purpose of further memorializing and achieving the intent reflected in this Agreement.

Section 28.16. Notices.

Unless otherwise provided in this Agreement, all notices, approvals, requests, consents and other communications given in accordance with the terms of this Agreement must be in writing and must be hand-delivered, sent by facsimile, sent by e-mail transmission, sent by FedEx Express service or sent by United States certified or registered mail, return receipt requested, addressed as follows:

If to Contractor:

Chanje Energy, Inc.
12824 Cerise Avenue
Hawthorne, CA 90250
Attn: Emilia Sibley
Telephone No.: (207) 272-5474
FAX:
Email: emilia.sibley@chanje.com

with a copy to:

General Counsel/Legal Department
Chanje Energy, Inc.
12824 Cerise Avenue
Hawthorne, CA 90250
Telephone No.: (310) 920-9950
FAX:
Email: legal@chanje.com

If to FedEx:

Federal Express Corporation
Attn: Project Manager,
Project No. 8654807
3680 Hacks Cross Road
Building H, 3rd Floor
Memphis, Tennessee 38125
Telephone No.: (901) 434-8891
FAX: _____ (901) 434-9478
Email:

with a copy to:

Federal Express Corporation
Legal Department
Attention: Managing Director,
Business Transactions (#19-0811)
3620 Hacks Cross Road
Building B, 3rd Floor
Memphis, Tennessee 38125
Telephone No.: (901) 434-8600
FAX: (901) 434-5106
Email:

Delivery of any notice, approval, request, consent or other communication given and sent in a manner specified above will occur when either (a) uploaded to the cloud-based platform (if applicable), or (b) received or when the addressee refuses delivery. If a party sends a notice, approval, request, consent or other communication by facsimile or e-mail transmission, it must also send, on that same day, a duplicate copy by hand delivery, FedEx Express service or United States certified or registered mail. Either party may change its address for the delivery of notices by giving written notice of that change to the other party in the manner specified above.

Section 28.17. Signage. FedEx may place on any Site whatever signs it wishes. Contractor shall place on each Site all signs that Legal Requirements applicable to the Work require and such additional signs as may be necessary to promote the safe conduct of the Work. With FedEx's prior written consent, Contractor may also place marketing signage on a Site; FedEx may not unreasonably withhold that consent. Contractor shall comply with all Legal Requirements applicable to the placement of signs on a Site. Upon Final Acceptance of the last of the Tasks Contractor completes in accordance with the terms of this Agreement or any earlier termination of this Agreement, Contractor shall remove all signs that it has placed on the Sites and that the Contract Documents do not specifically require as part of the Project.

Section 28.18. Validity of Agreement. This Agreement is not valid or binding upon FedEx unless an officer of FedEx has executed it and FedEx's counsel has manifested his or her approval by signing or initialing this Agreement in the space provided.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CHANJE ENERGY, INC.

FEDERAL EXPRESS CORPORATION

By: Boyan Hansel
Name: Boyan Hansel
Title: CEO
Date: 9/26/19
("Contractor")

By: D. Cook
Name: DONNA W. COOK
Title: VICE PRESIDENT
Date: 10 - 31 - 2019
MM ("FedEx")

#1337791

Approved
Legal Department
[Signature] 8/27/19

HT

Approved
CRA
[Signature] 9/11/19

Exhibit A

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

SITES,
ALLOCABLE PORTIONS OF CONTRACTOR'S FEE

Exhibit B

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

FORM OF NOTICE TO PROCEED

NOTICE TO PROCEED

Gentlemen:

In accordance with Section 3.01 of the Construction Agreement (the "Agreement") dated _____, 2019, between Federal Express Corporation and Change Energy, Inc., you are hereby given Notice to Proceed with the Work or Task to be performed under the terms of the Agreement with respect to the following Site: _____.

You are directed to commence the Work not later than _____, 201__.

FedEx's Representative for the Work is Bill Wilson.

Very truly yours,

FEDERAL EXPRESS CORPORATION

By: _____

Title: _____

Agreed:

Chanje Energy, Inc.
("Contractor")

By: _____

Title: _____

Exhibit C-1
 to that certain
 Construction Agreement

between

Federal Express Corporation
 ("FedEx")

and

Chanje Energy, Inc.
 ("Contractor")

dated _____, 2019

CONTRACTOR'S FEE PAYMENT PROCEDURES

FedEx shall make progress payments to Contractor in accordance with the following procedure:

- (i) A percentage of the Contractor's Fee for each Task is due and payable upon achievement by Contractor of the milestones provided in this Section 1 to Exhibit C-1 (the "**Milestones**"). Contractor shall invoice, and FedEx shall pay, such Milestone payments in accordance with the following Milestone payment schedule (the "**Milestone Payment Schedule**");

Milestone Payment Schedule		
<i>Payment Structure per Site</i>		
Milestone	Detail	% of Funds Per Task Released
1	Mobilization Fee (incl. Equipment Procurement)	20%
2	Permit Approvals	Variable
3	Equipment Cost	Invoice up to 100% of the cost of purchased equipment (unless already invoiced under Milestone 1) once it is shipped to the site or a controlled warehouse.

4	Construction Completed	Up to 90% of total cost for site.
5	Retainage & Final Release	100%

- (ii) Contractor shall submit to FedEx Application for Payments for each Task in the form of Exhibit C-2, based on the Milestones completed during a preceding billing period: (A) on or before the 1st day of each calendar month during the performance of the Work, or the next working day if the 1st day is a Saturday, Sunday or Legal Holiday; and (B) on or before the 15th day of each calendar month during the performance of the Work, or the next working day if the 15th day is a Saturday, Sunday or Legal Holiday.
- (iii) Twenty percent (20%) of each Task Fee (the “**Mobilization Fee**”) portion of Contractor’s fee may be invoiced up to sixty (60) days prior to the currently agreed upon construction start date for the applicable Site.
- (iv) Contractor shall accompany each Application for Payment with:
- (A) for each final payment related to a Task listed in the Application for payment, a Conditional Waiver and Release on Final Payment which conforms to California Civil Code § 8136, executed by Contractor and each of its subcontractors performing work on the Task and on whose behalf payment is requested;
 - (B) a schedule (“Subcontractor Payment Schedule”) itemizing the amounts that Contractor intends to pay to Subcontractors out of the progress or final payment on each Task for which it has submitted the Application for Payment;
 - (C) a list of all Subcontracts Contractor executed for each Task since the execution of the Agreement or Contractor’s submission of its previous Application for Payment;
 - (D) if the Application for Payment seeks the release of any Retainage, all documentation required by virtue of Section 4.09 of the Agreement and not otherwise listed in this Exhibit C-1;
 - (E) photographs of the substantially completed Tasks identified in the Application for Payment taken both before Contractor’s performance of the Task began and after substantial completion of the Task occurred and depicting material aspects of the work involved in the Task;
 - (F) photographs of the finally completed Tasks identified in the Application for Payment taken both before Contractor’s performance of the Task began and after final completion of the Task occurred and depicting material aspects of the work involved in the Task;
 - (G) an undated schedule (“Projected Cash Flow Analysis”) setting forth Contractor’s good faith estimate of the aggregate amount of payments to which it believes it will become entitled in accordance with the terms of Agreement in the ensuing month and each subsequent month.
 - (H) the Transaction Tax Statements, as described in Section 14.01 of the Agreement;

Exhibit F

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

LEASE REQUIREMENTS

Contractor assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, religion, national origin, age or sex be excluded from participating in any employment activities covered in 14 CFR, Part 152, Subpart E. Contractor assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by that subpart. Contractor assures that it will require that its covered suborganizations provide assurances to Contractor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR, Part 152, Subpart E, to the same effect.

Contractor agrees that no person shall be excluded from participation in, denied the benefit of, or otherwise subjected to discrimination in connection with, the furnishing of the Services on the grounds of race, creed, color, age, sex or national origin. To the extent that the requirements of Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, as those Regulations may be amended from time to time, or the requirements of any other present or future laws, rules, regulations, orders or directions of the United States of America that relate to the requirements of those Regulations apply to the furnishing of the Services at any Facility, Contractor shall comply, and shall cause each Subcontractor to comply, with those requirements. Contractor shall provide, and shall cause each Subcontractor to provide, all information and reports required by those Regulations or by directives issued on the authority of those Regulations. Contractor shall permit, and shall cause each Subcontractor to permit, access to its books, records, accounts and other sources of information and to its facilities as Landlord or the Federal Aviation Administration may determine to be pertinent to ascertain whether there has been compliance with those Regulations and the directives issued on the authority of those Regulations. Where any information required of Contractor or a Subcontractor by virtue of the foregoing is in the exclusive possession of another person who fails or refuses to furnish the information, Contractor or the Subcontractor, as the case may be, must so certify to Landlord or the Federal Aviation Administration, as appropriate, and set forth the efforts it made to obtain the information.

Applicable to Facility identified as BFLA:

CONTRACTOR'S OBLIGATION FOR NON-DISCRIMINATION CERTIFICATE

(M.C. 2.62)

The "Contractor's Obligation for Non-discrimination" is as follows:

6. Contractor shall carry insurance in addition to that specifically named above as follows:

Coverage: Umbrella liability coverage \$10,000,000

Coverage: A policy of multiple peril (all-risk) property insurance that has been written in respect of the equipment and personal property that Contractor uses in the performance of the Work and that is not covered by the builder's risk policy in force with respect to the Project in an amount equal to the full replacement cost of that equipment and personal property.

Exhibit E

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

INSURANCE REQUIREMENTS

1. Workers' Compensation
 - (a) State Statutory
 - (b) Applicable Federal (e.g. Longshoremen's) Statutory
 - (c) Employer's Liability \$1,000,000.00

That insurance must contain an endorsement whereby the insurer waives all claims that it may now or later have against FedEx or any of its directors, officers or employees by way of subrogation.

2. Commercial General Liability
(Including Premises Operations, Independent Contractor's Protective, Products Liability and Completed Operations, Explosion, Collapse and Underground, and Contractual Liability coverages)
 - (a) Bodily Injury \$ _____
 - (b) Property Damage \$ _____
 - or
 - (c) Combined Single Limit \$1,000,000.00
3. Comprehensive Automobile Liability
 - (a) Bodily Injury \$ _____
 - (b) Property Damage \$ _____
 - or
 - (c) Combined Single Limit \$1,000,000.00
4. Contractor must maintain Completed Operations and Products Liability coverage in force for four years after Final Payment.
5. If an exposure exists, Contractor shall provide Aircraft Liability (owned and non-owned) and Watercraft Liability (owned and non-owned), with limits that FedEx approves.

For internal use at FedEx only:

Original Contractor's Fee	\$ _____
Change Orders to Date	\$ _____
Unresolved CCD Commitments to Date ¹	\$ _____
Amount of this CCD Commitment ²	\$ _____
Commitment Amount for Calculating Progress Payments ³	\$ _____

¹ The amount to be inserted is the sum of the "Amount of this CCD Commitment" line items appearing on all prior Construction Change Directives that FedEx has issued and with respect to which FedEx and Contractor have not yet executed Change Orders.

² If FedEx completed the bold-faced portion of the foregoing Construction Change Directive relating to FedEx's assertion as to the effect that the changes in the Work should have, the amount to be inserted will be the amount FedEx inserted as the "Amount of the Proposed Change". If FedEx did not complete the bold-faced portion of the foregoing Construction Change Directive relating to FedEx's assertion as to the effect that the changes in the Work should have, but Contractor did complete the bold-faced portion of the foregoing Construction Change Directive relating to Contractor's as to the effect that the changes in the Work should have, the amount to be inserted will be the amount Contractor inserted as the "Amount of the Proposed Change".

³ The amount to be inserted will be the sum of the preceding four line items.

Contractor's Fee reflected in your assertion set forth above, if any, is the change that becomes binding upon the parties as the result of the use of the procedures set forth in Article 26 or the outcome of a judicial action initiated to resolve the conflict.

In order to memorialize any agreement that the parties make regarding the terms that should be applicable to the changes in the Work described above or as part of the conclusion of the proceedings described in Article 26, whichever is applicable, the parties shall execute a Change Order setting out the applicable terms in the form of Exhibit D-1 to the Construction Agreement.

The terms used in this Construction Change Directive will have the meanings given to those terms in the Construction Agreement.

Chanje Energy, Inc.

Federal Express Corporation

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

The Substantial Completion Deadline should now be _____.

Other:

You assert that the changes in the Work required by virtue of this Construction Change Directive should have the following effect:

_____ the Contractor's Fee by \$ _____, which amount includes all applicable Transaction Taxes.

Original Contractor's Fee	\$ _____
Change Orders to Date	\$ _____
Amount of the Proposed Change	\$ _____
Net Change Order Effect	\$ _____
New Contractor's Fee	\$ _____

The Substantial Completion Deadline should now be _____.

Other:

If the bold-faced portion of this Construction Change Directive relating to FedEx's assertion as to the effect that the changes in the Work should have has been completed, FedEx shall remit payment to you in accordance with the terms of the Construction Agreement until the parties resolve any conflict relating to the changes in accordance with Article 26 of the Construction Agreement and, if necessary, by means of appropriate judicial action as though the change in the Contractor's Fee reflected in FedEx's assertion set forth above, if any, is the change that becomes binding upon the parties as the result of the use of the procedures set forth in Article 26 or the outcome of a judicial action initiated to resolve the conflict. If the bold-faced portion of this Construction Change Directive relating to your assertion as to the effect that the changes in the Work should have has been completed, but not that portion relating to FedEx's assertion, FedEx shall remit payment to you in accordance with the terms of the Construction Agreement until the parties resolve any conflict relating to the changes in accordance with Article 26 of the Construction Agreement and, if necessary, by means of appropriate judicial action as though the change in the

CONSTRUCTION CHANGE DIRECTIVE

Agreement No. 19-0811

Construction Change

Directive Date: _____

Construction Change

Directive No. _____

FedEx Project No. 8654807

To Contractor: _____

Address: _____

City/State: _____

As provided in your Construction Agreement with Federal Express Corporation ("FedEx") dated _____, 2019, you are instructed to make the following changes in the Work:

When FedEx signs this Construction Change Directive, you shall make the above-described changes in the Work even though you and FedEx either do not agree on all of the terms applicable to the changes in the Work or have not yet secured information you and FedEx respectively require in order to form opinions as to the terms that should be applicable to the changes in the Work. You and FedEx shall resolve any conflict regarding the terms that should be applicable to the changes in the Work in accordance with the procedures prescribed in Article 26, Dispute Resolution, of the Construction Agreement and, if necessary, by means of appropriate judicial action.

If, as of the date of FedEx's execution and delivery of this Construction Change Directive, the parties have formed opinions as to the terms that should be applicable to the changes in the Work described above, complete the following bold-faced portion of this Construction Change Directive:

FedEx asserts that the changes in the Work required by virtue of this Construction Change Directive should have the following effect:

_____ the Contractor's Fee by \$ _____, which amount includes all applicable Transaction Taxes.

Original Contractor's Fee	\$ _____
Change Orders to Date	\$ _____
Amount of the Proposed Change	\$ _____
Net Change Order Effect	\$ _____
New Contractor's Fee	\$ _____

Exhibit D-2

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

FORM OF CONSTRUCTION CHANGE DIRECTIVE

Agreement No. _____
Change Order No. _____

Change Order Date: _____
FedEx Project No. _____

deliver it to another party by causing an original executed counterpart to be delivered to that party or by causing a facsimile transmission of an original executed counterpart to be sent to that party.

Chanje Energy, Inc.

Federal Express Corporation

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

_____, the surety that executed the bonds furnished to FedEx in accordance with the terms of Section 21.01 of the Agreement, joins in the execution of the captioned Change Order for the sole purpose of confirming the accuracy of the acknowledgement set forth in division (iv) of that Change Order and confirming that those bonds, as so modified, remain in full force and effect.

SURETY:

By: _____

Title: _____

{Attach Power of Attorney for Surety's Signatory.}

Agreement No. _____
Change Order No. _____

Change Order Date: _____
FedEx Project No. _____

The Completion Date for the Task described above will now be _____, 20___. (insert "N/A" if not applicable)

Check, if applicable:

This Change Order covers the changes in the Work described in Construction Change Directive No. ___ dated ___, 20__.

This Change Order in no other way alters the terms and conditions of the Construction Agreement, which are ratified and confirmed other than as amended by this Change Order. By executing this Change Order, you acknowledge that:

- (i) you can achieve the planned progress in the Task related to the Site described above and reflected in your Construction Agreement (as adjusted to reflect both any change in the scope of the Task and any adjustment in the Substantial Completion Deadline upon which we have agreed in this Change Order) without the need for any change in your planned manning or sequencing of the Task that you have not already considered in connection with the negotiation of this Change Order;
- (ii) the Task Fee (as defined in your Construction Agreement and, if applicable, as stated in or adjusted by this Change Order) corresponding to the Site described above will fully compensate you for all costs that you anticipate incurring in the achievement of that planned progress; and
- (iii) you waive any claim you may have as of the date of your execution of this Change Order for any extension of the Substantial Completion Deadline for the Task described above or for an adjustment in the Task Fee corresponding to that Task that is not reflected in this Change Order you have caused the penalty amount established under the terms of the bonds that you furnished to FedEx in accordance with the terms of Section 21.01 of the Agreement to be adjusted to reflect the adjustment in the Contractor's Fee brought about by the parties' execution of this Change Order.

The terms used in this Change Order will have the meanings given to those terms in your Construction Agreement.

This Change Order will become effective between FedEx and Contractor upon FedEx's and Contractor's execution and delivery of this Change Order without regard to whether Contractor's surety has yet joined in the execution of this Change Order. Contractor must, however, cause that surety to join in the execution of this Change Order within thirty (30) days after this Change Order becomes effective between FedEx and Contractor and Contractor's failure to do so will entitle FedEx to withhold all payments on account of the Contractor's Fee to which Contractor would otherwise become entitled until the surety executes this Change Order and delivers it to FedEx.

The parties may execute this Change Order in any number of counterparts and all the counterparts, taken together, will constitute a single agreement. A party to this Change Order may

Agreement No. _____
Change Order No. _____

Change Order Date: _____
FedEx Project No. _____

CHANGE ORDER

Agreement No. 19-0811
Change Order No. _____

Change Order Date: _____
FedEx Project No. 8654807
FedEx Central File No. _____

To Contractor: _____
Address: _____
City/State: _____

As provided in your Construction Agreement with Federal Express Corporation dated _____, 2019,

(A) the following changes in the Task that you have undertaken at the Site whose FedEx Facility Identifier is _____:

_____ ; OR

(B) substituting the following Site having the FedEx Facility Identifier of _____ in _____ for that Site listed by FedEx Facility Identifier as _____ in Exhibit A; OR

(C) adding the following Site to the list of Sites set forth in Exhibit A to the Construction Agreement, which Site has the FedEx Facility Identifier of _____; OR

(D) deleting the following Site having the FedEx Facility Identifier of _____ on Exhibit A.

This Change Order when signed by the parties will have the following effect:

_____ the Task Fee by \$ _____, which amount includes all applicable Transaction Taxes.

Original Task Fee	\$ _____
Change Orders to Date	\$ _____
Amount of This Change Order	\$ _____
Net Change Order Effect	\$ _____
New Task Fee	\$ _____

Exhibit D-1

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

FORM OF CHANGE ORDER

CONTRACTOR'S TRANSACTION TAX STATEMENT

[All terms used below have the meanings established for those terms in the Construction Agreement dated _____, 2019, between Federal Express Corporation ("FedEx") and Chanje Energy, Inc. ("Contractor").

Contractor must check the appropriate box and list any amounts requested:

- Contractor has paid Transaction Taxes as appropriate in connection with the acquisition of Materials and Services required in the performance of that portion of the Work being performed in _____ because the taxing authorities in that jurisdiction impose those Transaction Taxes directly on Contractor.
- The applicable law of the jurisdiction where that portion of the Work being performed in _____ requires that Transaction Taxes be charged on Contractor's invoice and billed to FedEx. Transaction Taxes payable in respect of that portion of the Work being performed in _____ in the aggregate amount of \$ _____ are separately stated as part of Contractor's Application for Payment. Contractor will collect these Transaction Taxes from FedEx and remit them to the proper taxing authorities.
- Transaction Taxes are not due in respect of the Materials and Services that were furnished in respect of that portion of the Work being performed in _____ and that the Application for Payment to which this Transaction Tax Statement is appended covers. That Application for Payment, insofar as it relates to that portion of the Work being performed in _____, covers contractor and subcontractor labor only. Contractor and subcontractor labor services are not taxable in _____.

Exhibit C-3
to that certain
Construction Agreement
between
Federal Express Corporation
("FedEx")
and
Chanje Energy, Inc.
("Contractor")
dated _____, 2019

FORM OF TRANSACTION TAX STATEMENT



CONTRACTOR'S APPLICATION FOR PAYMENT

Page 1 of _____

Project:

FedEx Central File No. 29222 _____

Location:

Finance Project No. 8654807

FedEx Contract No. 19-0811

Application No. _____

APPLICATION FOR PAYMENT

Period From _____ To _____

The undersigned Contractor certifies that, to the best of Contractor's knowledge, information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that Contractor has paid all amounts for Work for which previous Applications for Payment were issued and with Respect to which Contractor has received payments from the Owner, and that the current payment shown in this Application is now due and there is no reason why payment should not be made as requested.

The present status of the Agreement, inclusive of change orders, is as follows:

CONTRACTOR'S FEE: \$ _____
 CHANGE ORDERS EXECUTED TO DATE: \$ _____

	Work Completed	This Period	To Date
Contractor: _____	Task Fees Earned	_____	_____
Address: _____	Retainage 10%*	_____	_____
Signature: _____	Total earned less retainage	_____	_____
	Retainage Released	_____	_____
	CURRENT PAYMENT DUE	_____	_____

*If Sites are added in other State, applicable State law may require a greater or lesser Retainage Percentage

FOR FEDEX USE ONLY

Contractor/Architect/Engineer _____	Cost Center/Acct. No. _____	Invoiced Amount \$ _____
Contract Number _____	Cost Center/Acct. No. _____	Project Number _____
Coordinator _____	Date _____	
Project Manager _____	Date _____	
Manager _____	Date _____	
Senior Manager _____	Date _____	
Managing Director _____	Date _____	
Transmitted to Vendor Accounting _____	Date _____	
(Signature)		

DEPT. _____ MAIL CODE: _____ PHONE: _____

Exhibit C-2

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

FORM OF APPLICATION FOR PAYMENT

- (I) the DBE Compliance Report required by virtue of Exhibit H below; and
 - (J) any other documentation that FedEx reasonably requests for its proper review of the Application for Payment.
- (v) FedEx shall promptly review each Application for Payment and approve for payment such amounts as FedEx reasonably determines to be properly due under the terms of the Agreement. FedEx shall state in writing its reason for withholding any or all of the monies that Contractor requests in an Application for Payment.
- (vi) FedEx shall make payment on the 30th day following the date of Contractor's submission of a complete Application for Payment or the next working day if the 30th day is a Saturday, Sunday or Legal Holiday.

For Change Orders affecting a Task Fee, the Task Fee will be adjusted as set forth on the applicable Change Order.

(a) In the use of the Facility or in the operations to be conducted in accordance with the provisions of the Lease, Contractor will not discriminate or permit discrimination against any person or class of persons by reason of race, color, creed, religion, ancestry, sex or national origin in any manner prohibited by the laws of the United States, the State of California or any ordinance or policy of the County of Kern.

(b) Contractor shall furnish its accommodations and services on a fair, equal and not discriminatory basis to all users of those accommodations and services and shall only charge fair, reasonable and not discriminatory prices for each unit of service.

(c) Contractor shall make its accommodations and services available to the public on fair and reasonable terms without discrimination on the basis of race, color, creed, religion, ancestry, sex or national origin.

(d) Contractor may not discriminate nor allow discrimination, either directly or indirectly, in hiring or employing persons to work on the Facility.

(e) Contractor agrees that it shall insert the requirements of this Exhibit in any agreement by which Contractor transfers any interest in this Agreement or grants a right or privilege to any person, firm or corporation to use the Facility or to render accommodations and services to the public on the Facility.

(f) Non-compliance with provisions (a), (b), (c), (d), and (e) above will constitute a material breach of this Agreement and, in addition to any other remedies provided by law or the Lease in the event of such non-compliance, Landlord has the right to terminate the Lease without liability therefore or at Landlord's election, Landlord has the right to enforce judicially provisions (a), (b), (c), (d), and (e) above.

In the event Contractor is found to have failed to comply with the provisions of articles (a), (b), (c), (d), and (e) above and notwithstanding any other remedy Landlord or FedEx pursues, Contractor shall at least pay to Landlord the sum of \$25.00 per day for each incident of a failure to comply.

Applicable to Facilities identified as SBAA:

FAA GRANT AGREEMENT ASSURANCES

NONDISCRIMINATION

A. For itself, its representatives, successors in interest, and permitted assigns, Contractor does hereby covenant and agree as a part of the consideration of this Agreement that, in the event facilities are constructed, maintained, or otherwise operated on the Facility for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Contractor shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

B. For itself and its representatives, successors in interest and permitted assigns, Contractor does hereby covenant and agree as a part of the consideration of this Agreement that:

1. No person on the ground of race, color, or national origin shall be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of the Facility;

2. In the construction of any Improvements on, over or under the Facility, if allowed, and the furnishings of services thereon, no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

3. Contractor shall use the Facility in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

C. Contractor acknowledges that, in the event of breach of any of the above nondiscrimination covenants, Landlord shall have the right to terminate the Lease and to re-enter and to repossess the Facility, and hold the Facility as if this Lease had never been made. This provision does not become effective until the procedures of 49 Code of Federal Regulations Part 21 are followed and completed, including expiration of appeal rights.

D. Contractor shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided that Contractor may make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

E. Contractor acknowledges that noncompliance with Provision D above shall constitute a material breach of the Lease and in the event of such noncompliance Landlord shall have the right to terminate the Lease and the estate hereby created without liability therefor or, at the election of Landlord or the United States, either or both thereof shall have the right to judicially enforce Provisions A, B, C and D above.

F. Contractor agrees that it shall insert the above five provisions in any agreement by which Contractor grants a right or privilege to any person, firm or corporation to render accommodations and/or service to the public at the Facility.

Exhibit G-1

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

SECURITY REQUIREMENTS

Each week Contractor shall furnish to FedEx's Representative a list of the names of all persons that will be present at a Site other than a Special Restriction Site for purposes of performing any of the Work and shall advise FedEx's Representative of changes and additions to that list that become necessary because of employee resignations or new hires, personnel reassignments or employment terminations by Contractor or any of its Subcontractors within twenty-four (24) hours of the occurrence of each such event.

As and to the extent that FedEx requires, Contractor shall perform the following screening activities with respect to persons that will perform any of the Work at the Site:

At Contractor's expense, conduct verifiable criminal background checks with respect to each person that will perform any of the Work at the Site for all locations where that person has lived during the previous ten (10) years or such other period of time as applicable Legal Requirements may prescribe, including his or her present addresses. To the extent that Contractor must cause a criminal background check to be conducted by virtue of the foregoing, Contractor shall either perform the background check itself, if the applicable Legal Requirements permit it to do so, or cause the background check to be performed by a service provider reasonably acceptable to FedEx. Contractor shall keep the criminal background checks that it conducts by virtue of the foregoing on file until Final Acceptance of the Task performed on the Site and provide FedEx with copies from time to time at FedEx's request.

Before permitting any person that has a criminal history to enter the facility where the Site is located for the purpose of performing any part of the Work, Contractor must give FedEx's Representative written notice of the identity of that person and his or her history and must secure the written concurrence of FedEx's Representative to the use of that person.

Contractor shall make available for FedEx's inspection upon FedEx's request the employment applications of all persons that perform any of the Work at the Site.

Contractor shall ensure that a condition of the continued employment of each person engaged to perform any of the Work at the Site is that that person must submit to searches when leaving the Site, if FedEx requests that such a search be conducted. Contractor may not permit any person to re-enter the Site for the purpose of performing any of the Work if that person has refused to submit to a search when leaving the Site on a prior occasion.

To the extent FedEx requires, Contractor shall cause photo identification badges that satisfy all requirements of FedEx to be issued and timely re-issued at Contractor's expense to persons engaged in performing the Work at the Site and shall cause the persons to whom those badges are issued to wear their badges on their outermost clothing, at or above waist level, at all times that they are present at the Site. Moreover, if FedEx engages a third-party service provider to facilitate the issuance of photo identification badges to persons engaged in performing the Work at the Site, Contractor will be responsible for all costs that the third-party service provider charges to facilitate the issuance of such badges and shall pay any such costs directly to the third-party service provider within thirty (30) days after the date on which Contractor receives the service provider's invoice. Upon the completion of the Work, Contractor shall return to FedEx all photo identification badges issued in connection with the performance of the Work at the Site. Within one (1) business day following the time at which any person engaged in performing the Work at the Site leaves the employ of Contractor or a Subcontractor or the time at which Contractor or a Subcontractor permanently re-assigns any person previously engaged in performing the Work at the Site to tasks not involving the performance of the Work, Contractor must notify FedEx that such person will not be returning to the Site. Simultaneously with each such notification, Contractor shall also cause any photo identification badge issued in accordance with the foregoing to the person who will not be returning to the Site to be returned to FedEx. Within one (1) business day following the time at which any person engaged in performing the Work at the Site notifies Contractor that any photo identification badge issued to that person in accordance with the foregoing has been lost or stolen, Contractor must notify FedEx of such loss or theft and shall reimburse FedEx upon demand for any cost FedEx incurs to replace the lost or stolen badge and for any other cost that FedEx incurs by reason of the loss or theft, including, without limitation, the cost of issuing new photo identification badges to all persons working at the Site, whether employed by FedEx, Contractor or other service providers that FedEx engages

Contractor shall notify FedEx's Representative of any person engaged in performing the Work that is suspected of theft or other wrongdoing while at or about the Site and, at FedEx's request and to the extent permitted by applicable Legal Requirements, Contractor shall cooperate in any investigation of any such suspected theft or other wrongdoing.

Contractor shall indemnify, defend and hold FedEx and its officers, directors, agents and employees harmless from and against all claims, losses, fines, penalties (whether criminal or civil), demands, actions, administrative proceedings, liability, judgments and expenses, including, without limitation, reasonable attorneys' fees, that may be asserted against, or sustained by, any of them by reason of, or in connection with, the failure of Contractor or any of its Subcontractors to comply with the foregoing security requirements.

Exhibit G-2

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

SPECIAL RESTRICTION SITE SECURITY REQUIREMENTS

Each week Contractor shall furnish to FedEx's Representative a list of the names and Social Security numbers of all persons that will be present at the Special Restriction Sites for purposes of performing any of the Work and shall advise FedEx's Representative of changes and additions to that list that become necessary because of employee resignations or new hires, personnel reassignments or employment terminations by Contractor or any of its Subcontractors within twenty-four (24) hours of the occurrence of each such event.

As and to the extent that FedEx, the Transportation Security Administration ("TSA") or the airport authority having jurisdiction over any Special Restriction Site requires, Contractor shall perform the following screening activities with respect to persons that will perform any of the Work at a Special Restriction Site:

At Contractor's expense (unless provided to the contrary below and then only to the extent expressly set forth below), conduct verifiable criminal background checks with respect to each person that will perform any of the Work at the Special Restriction Site for all locations where that person has lived during the previous ten (10) years or such other period of time as applicable Legal Requirements may prescribe, including his or her present addresses. If any part of the Special Restriction Site lies within a Security Identification Display Area ("SIDA"), as defined in TSA regulations, the criminal background check will take the form of a fingerprint-based Criminal History Records Check ("CHRC"). FedEx's Security Specialist having responsibility for the Special Restriction Site will advise Contractor as to whether CHRCs are necessary and, if they are, Contractor shall submit CHRC requests to that Security Specialist. In making those requests, Contractor shall use FedEx's UID/Submission Office Number ("SON"), which FedEx's Security Specialist having responsibility for the Special Restriction Site will provide to Contractor. FedEx shall pay the costs associated with submissions of requests for CHRCs to the Federal Bureau of Investigation through the appropriate clearinghouse. To the extent that Contractor must cause a criminal background check other than a CHRC to be conducted by virtue of the foregoing, Contractor shall either perform the background check itself, if the applicable Legal Requirements of the TSA or the airport authority having jurisdiction

over the Special Restriction Site permit it to do so, or cause the background check to be performed by a service provider reasonably acceptable to FedEx. Contractor shall keep the CHRCs and other criminal background checks that it conducts by virtue of the foregoing on file until Final Acceptance of the Task performed on the Special Restriction Site and provide FedEx with copies from time to time at FedEx's request.

At Contractor's expense, conduct a Social Security number and date of birth verification with respect to all persons that will perform any of the Work at the Special Restriction Site. Contractor must verify that the Social Security number and date of birth submitted to Contractor on the employment application of each person that will perform any of the Work at the Special Restriction Site is the actual Social Security number and date of birth for that person. Contractor must retain an independent third party service provider to perform the foregoing verification. Contractor shall keep the Social Security number and date of birth verification for each person engaged to perform any of the Work at the Special Restriction Site on file until Final Acceptance of the Task performed on the Special Restriction Site and provide FedEx with copies from time to time at FedEx's request.

Cause persons that will perform any of the Work at the Special Restriction Site to submit to a Drug Screen Test that meets the Protocol Standards of the TSA or the airport authority, as applicable, or that FedEx establishes and that Contractor causes to be administered at Contractor's expense. The Drug Screen Tests that Contractor causes to be administered by virtue of the foregoing must test for evidence of the use of marijuana, cocaine, opiates, phencyclidines ("pcp") and amphetamines. The testing laboratory that analyzes the blood or urine samples taken in connection with a required Drug Screen Test must be a laboratory approved by the National Institute of Drug Abuse. Contractor may not permit any person to enter a Special Restriction Site for the purpose of performing any of the Work if the results of a Drug Screen Test administered to that person exceed the minimum allowable levels that the Department of Transportation ("DOT") establishes from time to time. Contractor shall ensure that a condition of the continued employment of each person engaged to perform any of the Work at any Special Restriction Site is that that person must submit to Drug Screen Tests during the performance of the Work if FedEx, Contractor, the TSA, or the airport authority having jurisdiction over the Special Restriction Site believes that there is probable cause that the person is using DOT-proscribed drugs. Contractor may not permit any person to enter any Special Restriction Site for the purpose of performing any of the Work if that person refuses to submit to a Drug Screen Test under circumstances where FedEx, Contractor, the TSA, or the airport authority having jurisdiction over the Special Restriction Site believes that there is probable cause that the person is using DOT-proscribed drugs or if the results of that person's Drug Screen Test exceed the minimum allowable levels that the Department of Transportation establishes from time to time.

Cause persons that will perform any of the Work at any Special Restriction Site to provide a ten-year employment history and cause employer reference verifications meeting FedEx, TSA and airport authority standards to be prepared with respect to those persons at Contractor's expense. If the employment of a person who is expected to perform any of the Work at a Special Restriction Site during the most recent five (5) years cannot be verified because one or more employers included in his or her employment history no longer exist or because of other reasons, or if the person does not have an employment history sufficient to meet TSA requirements, Contractor must cause the person to furnish to FedEx's Representative and FedEx's Security Specialist having responsibility for the Special Restriction Site an explanation for any gap or lapse appearing in that person's employment history that is sufficient in FedEx's sole discretion. Contractor may not permit

any person to enter any Special Restriction Site for the purpose of performing any of the Work if the employer reference verification required by virtue of the foregoing reveals either any adverse information that would preclude the person's entry on to airport property under TSA requirements or job-related criminal convictions entered against the person during the preceding ten (10) years or such other period of time as applicable Legal Requirements may prescribe. Contractor shall keep the employer reference verifications that it causes to be prepared by virtue of the foregoing on file until Final Acceptance of the Task performed on the Special Restriction Site and provide FedEx with copies from time to time at FedEx's request.

Before permitting any person that has a criminal history to enter a Special Restriction Site for the purpose of performing any part of the Work, Contractor must give both FedEx's Representative and FedEx's Security Specialist having responsibility for the Special Restriction Site written notice of the identity of that person and his or her history and must secure the written concurrence of FedEx's Representative to the use of that person.

Contractor shall make available for FedEx's inspection upon FedEx's request the employment applications of all persons that perform any of the Work at any Special Restriction Site.

Contractor shall cause all persons that perform any of the Work at any Special Restriction Site to be instructed not to bring personal items on to the Special Restriction Site, including, without limitation, radios (other than two-way radios used in the performance of the Work), and personal tape and CD players.

Contractor shall ensure that a condition of the continued employment of each person engaged to perform any of the Work at any Special Restriction Site is that that person must submit to searches when leaving a Special Restriction Site, if FedEx requests that such a search be conducted. Contractor may not permit any person to re-enter any Site for the purpose of performing any of the Work if that person has refused to submit to a search when leaving a Special Restriction Site on a prior occasion.

To the extent FedEx, the TSA or the airport authority having jurisdiction over a Special Restriction Site requires, Contractor shall cause photo identification badges that satisfy all requirements of FedEx, the TSA and the airport authority that has jurisdiction over the Special Restriction Site to be issued and timely re-issued at Contractor's expense to persons engaged in performing the Work at the Special Restriction Site and shall cause the persons to whom those badges are issued to wear their badges on their outermost clothing, at or above waist level, at all times that they are present at the Special Restriction Site. If the TSA and the airport authority permit any persons engaged in performing the Work to be present at a Special Restriction Site without wearing photo identification badges, Contractor shall ensure that all conditions that the TSA or the airport authority establishes with respect to the presence of those persons at the Special Restriction Site are observed at all times that those persons are performing the Work at the Special Restriction Site, including, without limitation, maintaining the degree of supervision the TSA and the airport authority require. If any part of a Special Restriction Site lies within a SIDA, that supervision will include, without limitation, ensuring that a person that has escort authority for that SIDA under applicable TSA regulations accompanies or monitors those persons without photo identification badges who enter the SIDA for the purpose of performing any of the Work at all times that they are present in the SIDA. Moreover, if FedEx engages a third-party service provider to facilitate the issuance of photo identification badges to persons engaged in performing the Work at the Special Restriction Site, Contractor will be responsible for all costs that the third-party service provider charges to facilitate the issuance of such badges and shall pay any such costs directly to the third-party service provider within thirty (30) days after the date on which Contractor receives the service provider's invoice. Upon the completion of the Work, Contractor shall return to FedEx or the authority that issued the badge, as applicable, all photo identification badges issued in connection with the performance of the Work at the Site. Within one (1) business day following

the time at which any person engaged in performing the Work at the Site leaves the employ of Contractor or a Subcontractor or the time at which Contractor or a Subcontractor permanently re-assigns any person previously engaged in performing the Work at the Site to tasks not involving the performance of the Work, Contractor must notify FedEx that such person will not be returning to the Site. Simultaneously with each such notification, Contractor shall also cause any photo identification badge issued in accordance with the foregoing to the person who will not be returning to the Site to be returned to FedEx or the authority that issued the badge. Within one (1) business day following the time at which any person engaged in performing the Work at the Site notifies Contractor that any photo identification badge issued to that person in accordance with the foregoing has been lost or stolen, Contractor must notify FedEx of such loss or theft and shall reimburse FedEx upon demand for any cost FedEx incurs to replace the lost or stolen badge and for any other cost that FedEx incurs by reason of the loss or theft, including, without limitation, the cost of issuing new photo identification badges to all persons working at the Site, whether employed by FedEx, Contractor or other service providers that FedEx engages, to the extent that the TSA or the airport authority having jurisdiction over the Site requires the issuance of those new badges.

Contractor shall notify FedEx's Security Specialist having responsibility for the Special Restriction Site of any person engaged in performing the Work that is suspected of theft or other wrongdoing while at or about a Special Restriction Site and, at FedEx's request and to the extent permitted by applicable Legal Requirements, Contractor shall cooperate in any investigation of any such suspected theft or other wrongdoing.

Contractor shall indemnify, defend and hold FedEx and its officers, directors, agents and employees harmless from and against all claims, losses, fines, penalties (whether criminal or civil), demands, actions, administrative proceedings, liability, judgments and expenses, including, without limitation, reasonable attorneys' fees, that may be asserted against, or sustained by, any of them by reason of, or in connection with, the failure of Contractor or any of its Subcontractors to comply with the foregoing security requirements.

Exhibit H

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

DBE PARTICIPATION

I. DBE PARTICIPATION

FedEx encourages the participation of disadvantaged business enterprises as defined in Section II below ("DBEs"). Contractor must take reasonable steps to ensure that DBEs have a full and fair opportunity to compete for Subcontracts and to perform portions of the Work without discrimination on the basis of age, race, color, national origin or sex or disability.

At a minimum, Contractor must take the following steps to seek out and obtain DBE participation in the Project:

- a. Contact two or more DBEs for each category of work being Subcontracted;
- b. Affirmatively solicit their interest, capability and price quotes;
- c. Provide equal time for all prospective Subcontractors to prepare proposals;
- d. Provide at least as much time to DBE prospective Subcontractors in assisting them in preparing their bids/proposals for Subcontracted work as it does to non-DBE prospective Subcontractors;
- e. Contact the President or Executive Director of the minority contractors association whose members do business in the vicinity of the Site in order to obtain suggestions regarding DBEs that may have the capability to participate in, and an interest in participating in, the Project;
- f. Advertise in general circulation, trade association and minority-focused media concerning subcontracting opportunities;
- g. Provide adequate information to DBEs about the Contract Documents and contract requirements;

- h. Negotiate in good faith with interested DBEs by not rejecting them as unqualified without sound reasons based upon thorough investigations of their capabilities; and
- i. Fairly represent DBE quotations in the formulation of the Subcontractors' bids as shown on the bid tabulation or other work documents supporting the award of the Subcontract.

The above requirements are the minimum efforts that FedEx expects of Contractor; the foregoing is not, however, exclusive or exhaustive of the kinds of efforts that can be made.

II. DBE DEFINITION/REQUIREMENTS

For purposes of this Agreement, a DBE is defined as any of the following:

1. A Minority Business Enterprise (MBE), which means any business enterprise that is at least fifty-one-percent-owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by, citizens or lawful permanent residents of the United States who are minorities and such ownership is real, substantial and continuing.

The term "Minority" includes: (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (ii) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (iii) Asian and Pacific Islander (all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation of community identification).

2. A Women-owned Business Enterprise (WBE), which means any business enterprise that is at least fifty-one- percent-owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by, women and such ownership is real, substantial and continuing.
3. A for-profit, small business concern that is at least fifty-one-percent-owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least fifty-one percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged owners of the small business concern with the net worth of none of the socially and economically disadvantaged owners not exceeding \$750,000.00.

Individuals in the groups listed below who are citizens of the United States (or lawfully admitted permanent residents) are presumed socially and economically disadvantaged. The presumption is a rebuttable one since other parties may challenge whether any particular person in one of these groups is actually disadvantaged. The groups are:

- a. Women;
- b. Black American, which includes persons having origins in any of the Black racial groups of Africa;
- c. Hispanic Americans, which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- d. Native Americans, which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
- e. Asian-Pacific Americans, which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- f. Subcontinent Asian Americans, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- g. Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration, at such time as the Small Business Administration designation becomes effective.

III. DBE COMPLIANCE REPORT

Contractor shall submit a DBE Compliance Report with each Application for Payment in the following format on Contractor's company letterhead.

MONTHLY DBE COMPLIANCE REPORT

PROJECT TITLE: USA EV INSTALLATION

PROJECT NUMBER: 8654807

DATE:

From:

To: _____

For the month ending _____, 201__, I certify that DBE participation requirements for this Project were satisfied by the means shown below:

<u>DBE COMPANY NAME/ADDRESS</u>	<u>Contract</u> <u>\$ Amount</u>	<u>Current Month</u> <u>\$ Amount</u>	<u>Cum. Total</u> <u>\$ Amount</u>
---------------------------------	-------------------------------------	--	---------------------------------------

Signed: _____

Title: _____

Exhibit I

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

FORM OF PROJECT MANAGEMENT REPORT

WEEKLY PROGRESS REPORT

Date: _____

- Submit one program schedule in both PDF and MS Project 2016 formats showing sufficient detail at the location level.
- For each location complete the following

FedEx Facility Identifier: _____

Substantial Completion Deadline: _____

Describe in detail critical impacts that might result in a delay of the either the Substantial Completion Deadline:

Describe in detail any safety concerns:

Describe in detail any security concerns:

Use listing below to report any concerns with sourcing, installation, etc.

- 1) Permit:
- 2) Construction drawings:
- 3) Mobilization:
- 4) Demolition:
- 5) Telecommunications:
- 6) Electrical:
- 7) Other:

Punch List Date: _____

Punchlist corrections complete: _____

Warranties posted to Website: _____

As-Built Drawings posted to Website: _____

Exhibit J

to that certain

Construction Agreement

between

Federal Express Corporation
("FedEx")

and

Chanje Energy, Inc.
("Contractor")

dated _____, 2019

FORM OF FINAL COMMISSIONING REPORT

FedEx Electric Vehicle Charging Infrastructure Final Commissioning Report Form

Final Commissioning Date:

Site Parameters	Site Details
AIR Code	
Address	
Latitude	
Longitude	
Authority Having Jurisdiction	
Electric Utility	
Time Zone	

Technical Information	Charger Type 1	Charger Type 2
Charger Manufacturer		
Charger Model Name		
Charger Max Power Output		
Number of Chargers Installed		
Number of Charging Ports Installed		
Input Voltage		
Serial Numbers		

Installer Information	Installer Details
Installer Company Name	
Installer Project Manager Name	

Checklist Items	Yes / No / N/A	Notes
Inspections		
Authority Having Jurisdiction (AHJ) inspection completed and signoff received?		
Utility inspection completed and signoff received? (if required)		
Change inspection completed?		
Charging Infrastructure		
All chargers provide full output (all ports)?		
All chargers are visible in the Change charging software portal?		
Emergency disconnect switches functional?		

Networking		
Networking equipment functional?		
All chargers have working Internet connection?		
Cloud dashboard for networking equipment activated?		

Change Project Manager Signature of Approval

I hereby attest that all commissioning activities have been completed.

Name	Signature	Date

FedEx Senior Manager Signature of Approval

I hereby acknowledge that all commissioning activities have been completed to the best of my knowledge.

Name	Signature	Date

19-0811

Exhibit C-1
to that certain
Construction Agreement
between
Federal Express Corporation
("FedEx")
and
Chanje Energy, Inc.
("Contractor")
dated _____, 2019

CONTRACTOR'S FEE PAYMENT PROCEDURES

FedEx shall make progress payments to Contractor in accordance with the following procedure:

- (i) A percentage of the Contractor's Fee for each Task is due and payable upon achievement by Contractor of the milestones provided in this Section 1 to Exhibit C-1 (the "Milestones"). Contractor shall invoice, and FedEx shall pay, such Milestone payments in accordance with the following Milestone payment schedule (the "Milestone Payment Schedule"):

Milestone Payment Schedule		
<i>Payment Structure per Site</i>		
Milestone	Detail	% of Funds Per Task Released
1	Mobilization Fee (incl. Equipment Procurement)	20%
2	Permit Approvals	Variable
3	Equipment Cost	Invoice up to 100% of the cost of purchased equipment (unless already invoiced under Milestone 1) once it is shipped to the site or a controlled warehouse.

4	Construction Completed	Up to 90% of total cost for site.
5	Retainage & Final Release	100%

- (ii) Contractor shall submit to FedEx Application for Payments for each Task in the form of **Exhibit C-2**, based on the Milestones completed during a preceding billing period: (A) on or before the 1st day of each calendar month during the performance of the Work, or the next working day if the 1st day is a Saturday, Sunday or Legal Holiday; and (B) on or before the 15th day of each calendar month during the performance of the Work, or the next working day if the 15th day is a Saturday, Sunday or Legal Holiday.
- (iii) Twenty percent (20%) of each Task Fee (the “**Mobilization Fee**”) portion of Contractor’s fee may be invoiced up to sixty (60) days prior to the currently agreed upon construction start date for the applicable Site.
- (iv) Contractor shall accompany each Application for Payment with:
- (A) for each final payment related to a Task listed in the Application for payment, a Conditional Waiver and Release on Final Payment which conforms to California Civil Code § 8136, executed by Contractor and each of its subcontractors performing work on the Task and on whose behalf payment is requested;
 - (B) a schedule (“Subcontractor Payment Schedule”) itemizing the amounts that Contractor intends to pay to Subcontractors out of the progress or final payment on each Task for which it has submitted the Application for Payment;
 - (C) a list of all Subcontracts Contractor executed for each Task since the execution of the Agreement or Contractor’s submission of its previous Application for Payment;
 - (D) if the Application for Payment seeks the release of any Retainage, all documentation required by virtue of Section 4.09 of the Agreement and not otherwise listed in this **Exhibit C-1**;
 - (E) photographs of the substantially completed Tasks identified in the Application for Payment taken both before Contractor’s performance of the Task began and after substantial completion of the Task occurred and depicting material aspects of the work involved in the Task;
 - (F) photographs of the finally completed Tasks identified in the Application for Payment taken both before Contractor’s performance of the Task began and after final completion of the Task occurred and depicting material aspects of the work involved in the Task;
 - (G) an undated schedule (“Projected Cash Flow Analysis”) setting forth Contractor’s good faith estimate of the aggregate amount of payments to which it believes it will become entitled in accordance with the terms of Agreement in the ensuing month and each subsequent month.
 - (H) the Transaction Tax Statements, as described in Section 14.01 of the Agreement;

- (I) the DBE Compliance Report required by virtue of Exhibit H below; and
 - (J) any other documentation that FedEx reasonably requests for its proper review of the Application for Payment.
- (v) FedEx shall promptly review each Application for Payment and approve for payment such amounts as FedEx reasonably determines to be properly due under the terms of the Agreement. FedEx shall state in writing its reason for withholding any or all of the monies that Contractor requests in an Application for Payment.
- (vi) FedEx shall make payment on the 30th day following the date of Contractor's submission of a complete Application for Payment or the next working day if the 30th day is a Saturday, Sunday or Legal Holiday.

For Change Orders affecting a Task Fee, the Task Fee will be adjusted as set forth on the applicable Change Order.

EXHIBIT B

John G. Donovan
Vice President
3050 Hatcher Cross Road
Building 1, 2nd Floor
Memphis, TN 38125 8800

Telephone 901 474 7600
Fax 901 474 4067



VIA FEDEX

May 13, 2021

Chanje Energy, Inc.
12655 W. Jefferson Blvd.
Los Angeles, LA 90066
Attn: John Packwood

Chanje Energy, Inc.
12824 Carise Avenue
Hawthorne, CA 90250
Attn: General Counsel/Legal Department

**RE: Notice of Default
FedEx Contract No. 19-0811**

FedEx and Chanje executed a Standard Form Construction Agreement for Repairs, Alterations and Improvements to Existing Structures effective October 31, 2019 ("the Agreement").

FedEx provides this written notice of default under section 25.01 for failure by Chanje to perform certain of its obligations under the terms of this Agreement that involves more than the payment of money and misrepresentations to FedEx in certain Applications for Payment that it delivered in accordance with the terms of this Agreement.

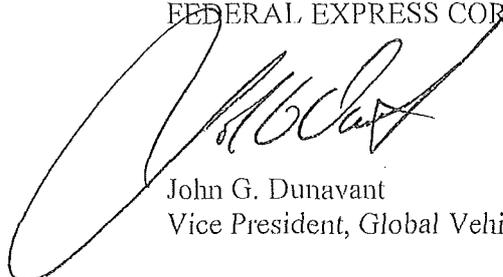
Under Section 4.04, Chanje's submission of an Application for Payment in connection with its performance of the Work, including the provision of equipment by subcontractors to be used in the Work, constituted an affirmative representation that all Work and equipment for which Chanje received payments from FedEx were free and clear of liens, claims, security interests or other encumbrances in favor of Chanje or any other person or entity whatsoever. Due to the fact that FedEx is presently aware that Chanje's representations, as set forth in certain Applications for Payment were wholly or partially inaccurate, FedEx is entitled to withhold payment of sums currently due or in the future otherwise due to Chanje in an amount reasonably necessary to protect FedEx until Chanje corrects the inaccuracy and the circumstances giving rise to the inaccuracy to FedEx's reasonable satisfaction.

Secondly, under section 8.03, Chanje must not permit any laborer's, materialman's, mechanic's or other similar liens to be filed or otherwise imposed on any part of the Work or any Site by any person claiming by, through or under Chanje unless the filing or imposition of the lien is attributable to FedEx's failure to make a payment to Chanje when obligated to do so under the terms of the Agreement. Chanje's failure to make all payments to subcontractors resulted in certain pre-liens being filed by certain subcontractors of Chanje. Despite Chanje satisfying the amounts attributable to those pre-liens, FedEx hereby makes demand that all other amounts which could be the subject of other pre-liens be satisfied by payment, bonding or otherwise.

In the event Chanje fails to cure all defaults under the Agreement within ten (10) business days of this notice, FedEx gives notice to terminate this Agreement without prejudice to any other remedy available to FedEx under section 25(b) or otherwise in the Agreement seven (7) days following the expiration of the ten (10) day cure period. FedEx reserves all other rights and remedies under the Agreement.

Sincerely,

FEDERAL EXPRESS CORPORATION

A large, stylized handwritten signature in black ink, appearing to read 'John G. Dunavant', is written over the typed name and title.

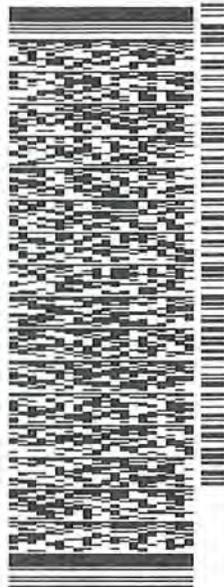
John G. Dunavant
Vice President, Global Vehicles

ORIGIN ID:HKAA (901) 434-7435
JOHN DUNAVANT
3690 HACKS CROSS ROAD
BUILDING 1, 2ND FLOOR
MEMPHIS, TN 38125
UNITED STATES US

SHIP DATE: 18MAY21
ACTWGT: 1.00 LB
CAD: 231911844INET4340
BILL SENDER

TO JOHN PACKWOOD

CHANJE ENERGY, INC.
1010 SANDHILL AVENUE
CARSON CA 90745
REF (901) 434-7687
PO NV DEPT



56DJ371DCFE4A

TRK# 7737 5388 9221
0201

WED - 19 MAY 10:30A
PRIORITY OVERNIGHT

XH TOAA

90745
CA-US LAX



After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

John G. Dussan
Vice President
7000 Heck's Cross Road
Building 1, 2nd Floor
Aurora, IL 60195-0000

Telephone 815.421.7007
Fax 815.411.3057



VIA FEDEX

May 13, 2021

Chanje Energy, Inc.
12655 W. Jefferson Blvd.
Los Angeles, LA 90066
Attn: John Packwood

Chanje Energy, Inc.
12824 Carise Avenue
Hawthorne, CA 90250
Attn: General Counsel/Legal Department

**RE: Notice of Default
FedEx Contract No, 19-0811**

FedEx and Chanje executed a Standard Form Construction Agreement for Repairs, Alterations and Improvements to Existing Structures effective October 31, 2019 ("the Agreement").

FedEx provides this written notice of default under section 25.01 for failure by Chanje to perform certain of its obligations under the terms of this Agreement that involves more than the payment of money and misrepresentations to FedEx in certain Applications for Payment that it delivered in accordance with the terms of this Agreement.

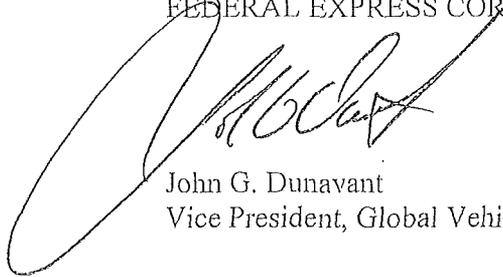
Under Section 4.04, Chanje's submission of an Application for Payment in connection with its performance of the Work, including the provision of equipment by subcontractors to be used in the Work, constituted an affirmative representation that all Work and equipment for which Chanje received payments from FedEx were free and clear of liens, claims, security interests or other encumbrances in favor of Chanje or any other person or entity whatsoever. Due to the fact that FedEx is presently aware that Chanje's representations, as set forth in certain Applications for Payment were wholly or partially inaccurate, FedEx is entitled to withhold payment of sums currently due or in the future otherwise due to Chanje in an amount reasonably necessary to protect FedEx until Chanje corrects the inaccuracy and the circumstances giving rise to the inaccuracy to FedEx's reasonable satisfaction.

Secondly, under section 8.03, Chanje must not permit any laborer's, materialman's, mechanic's or other similar liens to be filed or otherwise imposed on any part of the Work or any Site by any person claiming by, through or under Chanje unless the filing or imposition of the lien is attributable to FedEx's failure to make a payment to Chanje when obligated to do so under the terms of the Agreement. Chanje's failure to make all payments to subcontractors resulted in certain pre-liens being filed by certain subcontractors of Chanje. Despite Chanje satisfying the amounts attributable to those pre-liens, FedEx hereby makes demand that all other amounts which could be the subject of other pre-liens be satisfied by payment, bonding or otherwise.

In the event Chanje fails to cure all defaults under the Agreement within ten (10) business days of this notice, FedEx gives notice to terminate this Agreement without prejudice to any other remedy available to FedEx under section 25(b) or otherwise in the Agreement seven (7) days following the expiration of the ten (10) day cure period. FedEx reserves all other rights and remedies under the Agreement.

Sincerely,

FEDERAL EXPRESS CORPORATION

A large, stylized handwritten signature in black ink, appearing to read 'John G. Dunavant', is written over the printed name and title.

John G. Dunavant
Vice President, Global Vehicles

ORIGIN ID:HKAA (901) 434-7435
JOHN DUNAVANT

SHIP DATE: 18MAY21
ACTWGT: 1.00 LB
CAD: 251911644/INET4340

3690 HACKS CROSS ROAD
BUILDING 1, 2ND FLOOR
MEMPHIS, TN 38125
UNITED STATES US

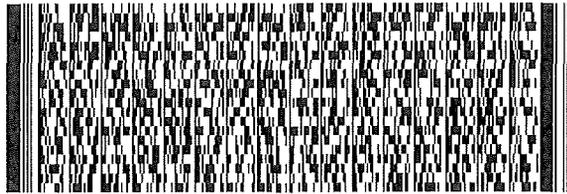
BILL SENDER

TO **ATTN: GENERAL COUNSEL LEGAL DEPT.**

**CHANJE ENERGY, INC.
1010 SANDHILL AVENUE
CARSON CA 90745**

56DJG71DC0FE4A

(901) 434-7687 REF:
INV: DEPT:
PO:



FedEx
Express



WED - 19 MAY 10:30A
PRIORITY OVERNIGHT

TRK# 7737 5387 0348
0201

XH TOAA

90745
CA-US LAX

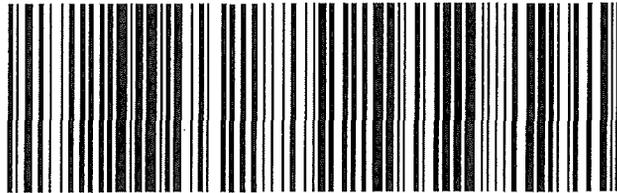


EXHIBIT C



VIA FEDEX

May 20, 2021

Chanje Energy, Inc.
1010 Sandhill Avenue,
Carson, CA 90745
Attn: John Packwood

Chanje Energy, Inc.
1010 Sandhill Avenue,
Carson, CA 90745
Attn: General Counsel/Legal Department

**RE: Notice of Default
FedEx Contract No. 19-0811**

FedEx and Chanje executed a Standard Form Construction Agreement for Repairs, Alterations and Improvements to Existing Structures effective October 31, 2019 ("the Agreement").

FedEx provides this written notice of default under section 25.01 for failure by Chanje to perform certain of its obligations under the terms of this Agreement that involves more than the payment of money and misrepresentations to FedEx in certain Applications for Payment that it delivered in accordance with the terms of this Agreement.

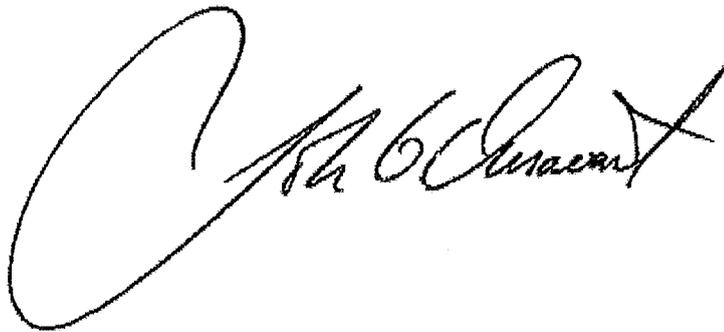
Under Section 4.04, Chanje's submission of an Application for Payment in connection with its performance of the Work, including the provision of equipment by subcontractors to be used in the Work, constituted an affirmative representation that all Work and equipment for which Chanje received payments from FedEx were free and clear of liens, claims, security interests or other encumbrances in favor of Chanje or any other person or entity whatsoever. Due to the fact that FedEx is presently aware that Chanje's representations, as set forth in certain Applications for Payment were wholly or partially inaccurate, FedEx is entitled to withhold payment of sums currently due or in the future otherwise due to Chanje in an amount reasonably necessary to protect FedEx until Chanje corrects the inaccuracy and the circumstances giving rise to the inaccuracy to FedEx's reasonable satisfaction.

Secondly, under section 8.03, Chanje must not permit any laborer's, materialman's, mechanic's or other similar liens to be filed or otherwise imposed on any part of the Work or any Site by any person claiming by, through or under Chanje unless the filing or imposition of the lien is attributable to FedEx's failure to make a payment to Chanje when obligated to do so under the terms of the Agreement. Chanje's failure to make all payments to subcontractors resulted in certain pre-liens being filed by certain subcontractors of Chanje. Despite Chanje satisfying the amounts attributable to those pre-liens, FedEx hereby makes demand that all other amounts which could be the subject of other pre-liens be satisfied by payment, bonding or otherwise.

In the event Chanje fails to cure all defaults under the Agreement within ten (10) business days of this notice, FedEx gives notice to terminate this Agreement without prejudice to any other remedy available to FedEx under section 25(b) or otherwise in the Agreement seven (7) days following the expiration of the ten (10) day cure period. FedEx reserves all other rights and remedies under the Agreement.

Sincerely,

FEDERAL EXPRESS CORPORATION

A handwritten signature in black ink, appearing to read "John G. Dunavant". The signature is written in a cursive style with a large, looping initial "J".

John G. Dunavant
Vice President, Global Vehicles

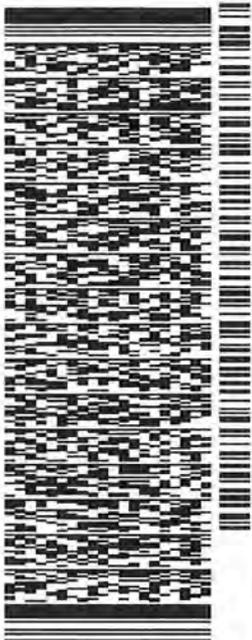
ORIGIN ID:HKAA (901) 434-7435
JOHN DUNAVANT
3690 HACKS CROSS ROAD
BULL DING I, 2ND FLOOR
MEMPHIS, TN 38125
UNITED STATES US

SHIP DATE: 20MA Y21
ACTWGT: 1.00 LB
CAD: 251911644/NET4340
BILL SENDER

TO JOHN PACKWOOD

CHANJE ENERGY, INC.
1616 VIA GARFIAS
PALOS VERDES ESTATES CA 90274
REF: (901) 434-7687
PC INV DEPT

56D.J371DC/FE4A



TRK# 7737 8194 0234
0201

FRI - 21 MAY 10:30A
PRIORITY OVERNIGHT

XH TOAA

90274
CA-US LAX



After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.



VIA FEDEX

May 20, 2021

Chanje Energy, Inc.
1010 Sandhill Avenue,
Carson, CA 90745
Attn: John Packwood

Chanje Energy, Inc.
1010 Sandhill Avenue,
Carson, CA 90745
Attn: General Counsel/Legal Department

**RE: Notice of Default
FedEx Contract No. 19-0811**

FedEx and Chanje executed a Standard Form Construction Agreement for Repairs, Alterations and Improvements to Existing Structures effective October 31, 2019 ("the Agreement").

FedEx provides this written notice of default under section 25.01 for failure by Chanje to perform certain of its obligations under the terms of this Agreement that involves more than the payment of money and misrepresentations to FedEx in certain Applications for Payment that it delivered in accordance with the terms of this Agreement.

Under Section 4.04, Chanje's submission of an Application for Payment in connection with its performance of the Work, including the provision of equipment by subcontractors to be used in the Work, constituted an affirmative representation that all Work and equipment for which Chanje received payments from FedEx were free and clear of liens, claims, security interests or other encumbrances in favor of Chanje or any other person or entity whatsoever. Due to the fact that FedEx is presently aware that Chanje's representations, as set forth in certain Applications for Payment were wholly or partially inaccurate, FedEx is entitled to withhold payment of sums currently due or in the future otherwise due to Chanje in an amount reasonably necessary to protect FedEx until Chanje corrects the inaccuracy and the circumstances giving rise to the inaccuracy to FedEx's reasonable satisfaction.

Secondly, under section 8.03, Chanje must not permit any laborer's, materialman's, mechanic's or other similar liens to be filed or otherwise imposed on any part of the Work or any Site by any person claiming by, through or under Chanje unless the filing or imposition of the lien is attributable to FedEx's failure to make a payment to Chanje when obligated to do so under the terms of the Agreement. Chanje's failure to make all payments to subcontractors resulted in certain pre-liens being filed by certain subcontractors of Chanje. Despite Chanje satisfying the amounts attributable to those pre-liens, FedEx hereby makes demand that all other amounts which could be the subject of other pre-liens be satisfied by payment, bonding or otherwise.

In the event Chanje fails to cure all defaults under the Agreement within ten (10) business days of this notice, FedEx gives notice to terminate this Agreement without prejudice to any other remedy available to FedEx under section 25(b) or otherwise in the Agreement seven (7) days following the expiration of the ten (10) day cure period. FedEx reserves all other rights and remedies under the Agreement.

Sincerely,

FEDERAL EXPRESS CORPORATION

A handwritten signature in black ink, appearing to read "John G. Dunavant". The signature is written in a cursive style with a large, prominent initial "J" and "D".

John G. Dunavant
Vice President, Global Vehicles



ORIGIN ID: HKAA (901) 434-7435
JOHN DUNAVANT
3690 HACKS CROSS ROAD
BUILDING 1, 2ND FLOOR
MEMPHIS, TN 38125
UNITED STATES US

SHIP DATE: 20MAY21
ACTWGT: 1.00 LB
CAD: 251911644/NET4340

BILL SENDER

TO ATTN: GENERAL COUNSEL LEGAL DEPT.

CHANJE ENERGY, INC.
1616 VIA GARFIAS

PALOS VERDES ESTATES CA 90274

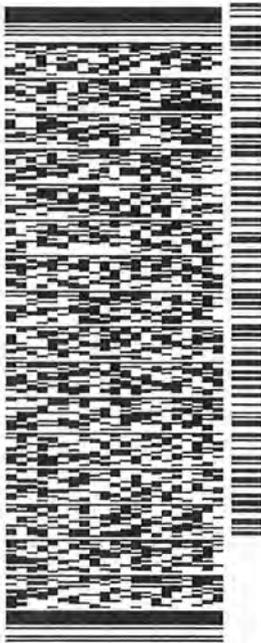
(901) 434-7687

REF:

PO:

DEPT:

56DJ371DC/FE4A



J2113210331014V

TRK# 7737 8204 1254
0201

FRI - 21 MAY 10:30A
PRIORITY OVERNIGHT

XH TOAA

90274
CA-US LAX



After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

EXHIBIT D



VIA FEDEX

June 14, 2021

Chanje Energy, Inc.
13022 Bond St
Overland Park, KS 66213

**RE: Notice of Termination
FedEx Contract No. 19-0811**

FedEx and Chanje entered into that certain Standard Form Construction Agreement for Repairs, Alterations and Improvements to Existing Structures effective October 31, 2019 ("the Agreement"). On May 14, 2021 first attempted delivery of a Notice of Default (the "Default Notice") was made to Chanje for certain defaults existing under the Agreement at the Notice Address provided in the Agreement. Without notice to FedEx, Chanje moved their corporate offices and on May 21, 2021 the Default Notice was received by Chanje at it's new corporate offices. Due to Chanje's failure to cure all defaults under the Agreement, now pursuant to Section 25.01(b) of the Agreement FedEx hereby provides Chanje with written notice of immediate termination of the Agreement.

FedEx reserves all rights and remedies under the Agreement with respect to other Services provided by Computershare under the Agreement.

Sincerely,

FEDERAL EXPRESS CORPORATION

A handwritten signature in black ink, appearing to read "John G. Dunavant".

John G. Dunavant
Vice President, Global Vehicles