

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

General Electric Company

AGREED ORDER

No. DE 4258

TO: General Electric Company, GE Aviation  
c/o James W. Sumner  
Manager, Group Environmental Programs  
One Neumann Way MD T165  
Cincinnati, OH 45215

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EXHIBIT A.	Site Diagram
EXHIBIT B.	Sub-Surface Vapor Intrusion-Interim Measures Work Plan and Design, dated January 29, 2007, Revision 1
EXHIBIT C.	Ecology Conditional Approval Certified Letter, dated February 23, 2007
EXHIBIT D.	Sampling and Analytical Procedures for Indoor Air and Ambient Air

## I. INTRODUCTION

The objective of the State of Washington, Department of Ecology (Ecology) under this Agreed Order (Order) is to require remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the General Electric Company (GE) to conduct an interim action that requires the installation, operation, and maintenance of a vapor intrusion mitigation system at the 220 South Dawson Street building in accordance with the Sub-Surface Vapor Intrusion-Interim Measures Work Plan and Design, dated January 29, 2007 Revision 1 (Exhibit B) and the Ecology conditional approval letter dated February 23, 2007 (Exhibit C). In the event of any inconsistency between this order and the documents incorporated herein, the following order of precedence shall apply: (1) order; (2) Exhibit C; then (3) Exhibit B.

## II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

## III. PLP BOUND

This Order shall apply to and be binding upon GE. To the extent allowed by law, changes in ownership or corporate status shall not alter GE's responsibility under this Order. GE shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

## IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as the former GE facility and is generally located at 220 South Dawson Street. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. The Site is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(4).

B. Potentially Liable Person (PLP): Refers to the General Electric Company.

C. Agreed Order or Order: Refers to this Order and each of the exhibits to the Order.

All exhibits are an integral and enforceable part of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.

D. Contaminants of Concern (COCs): For the purpose of this interim action relating to vapor mitigation, volatile chlorinated and non—chlorinated solvents, including trichloroethylene (TCE), 1,1,1-trichloroethane (TCA), perchloroethylene (PCE) and all volatile degradation products.

E. Remedial Action: Refers to the WAC 173-340-200 definition, including any action to identify, eliminate, or minimize threats posed by hazardous substances. Remedial Actions include actions taken to investigate contamination and monitor the status of media conditions.

## V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by GE:

1. In 1949, GE purchased Property at 220 South Dawson Street in Seattle, Washington (the “Property”). From 1959 to 1994, GE manufactured and repaired aircraft parts at the Property. In 1994, GE ceased manufacturing and repair operations at this location, and used the Property as warehouse and office space until December 1996, at which time GE vacated the premises. Since then, various companies have used the building on the Property as a warehouse. Keymac, LLC currently owns the Property.

2. Groundwater in the vicinity of the property is generally encountered between seven and ten feet below ground surface. Groundwater flows west to southwest.

3. During operation of its aircraft parts manufacturing and repair business, GE used petroleum products, non-chlorinated solvents, corrosive liquids, chromium, lead, waste oil contaminated with mercury and selenium, waste coolant oil, phosphoric acid, sulfuric acid, and chlorinated solvents, including trichloroethylene (TCE), 1,1,1-trichloroethane (TCA), and

perchloroethylene (PCE) at the Property. Releases of these COCs have occurred to the soils and groundwater at the former GE facility located at 220 South Dawson Street, Seattle, Washington.

4. Based on several vapor intrusion assessment reports prepared on behalf of GE for Ecology, dated February 6, 2006; October 12, 2006; and January 9, 2007 indoor air concentrations were documented above the MTCA Method C air cleanup level in several occupied businesses within the 220 South Dawson Street building. The subslab TCE vapor concentrations measured and reported in the February 6, 2006 report were between 100 and 10,000 times higher than the MTCA Method C air cleanup levels. The indoor air concentrations of TCE vapor measured and reported in the various reports ranged from compliance with the MTCA Method C cleanup level to 24 times this level. The MTCA Method C cleanup level is a protective level set based on the assumption that a person in the building is exposed to TCE vapor 24 hours/day, 7 days/week, for 30 years. The eight other volatile compounds measured as part of the above-listed studies did not exceed the MTCA Method C air cleanup levels.

## **VI. ECOLOGY DETERMINATIONS**

A. GE is a person who owned or operated the facility at the time of disposal or release of a hazardous substance and is liable under RCW 70.105D.040(1)(b) to a "facility" as defined in RCW 70.105D.020(4).

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(20) and RCW 70.105D.020(7), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to GE dated October 18, 1995, pursuant to RCW 70.105D.040, -.020(16) and WAC 173-340-500. By a letter of October 25, 1995, GE voluntarily waived its rights to notice and comment and accepted Ecology's determination that GE is a PLP under RCW 70.105D.040.

D. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the

foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

E. Under WAC 173-340-430, an interim action is a remedial action (1) that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, (2) that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or (3) that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study or design of a cleanup action. The purpose of this interim action is to reduce a threat to human health or the environment by mitigating the upward migration of subsurface trichloroethylene (TCE) vapors. The goal of this interim action is to achieve and GE will use its best efforts to achieve a concentration of 0.22 ug/m<sup>3</sup> TCE or less in indoor air due exclusively to vapor intrusion. The interim action system will remain in operation until such time as the MTCA Method C indoor air cleanup level of 0.22 ug/m<sup>3</sup> is achieved, unless another cleanup level is approved by Ecology.

## **VII. WORK TO BE PERFORMED**

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that GE take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. Within 20-calendar days of the effective date of this order, GE shall submit a copy of the written access agreement with the 220 South Dawson Street property owner which allows access for the installation, operation, maintenance and all other necessary functions of the vapor intrusion mitigation system pursuant to Section VIII.F (Access). GE shall make all reasonable efforts to acquire access from the owner within the time frame set forth above. In the event that GE is unable to acquire access as required herein, GE shall inform Ecology of GE's failure immediately by phone and email. If GE's failure to acquire access is not due to GE's lack of diligence, then GE's obligations hereunder shall be suspended until Ecology is able to acquire access from the owner and/or tenants by permit or court order.

B. Technical Memorandum #1. Within seven (7) calendar days of the effective date of this order, GE shall submit to Ecology for written approval, a technical memorandum that estimates expected emissions from the approved work plan's proposed vapor intrusion mitigation system and demonstrates that an air permit is not required. Technical Memorandum #1 shall also contain a plan which proposes sampling and analytical procedures to quantify and document stack emissions during the operation of the vapor intrusion mitigation system. The plan shall meet the requirements of WAC 173-340-820, -830, and -840.

C. Technical Memorandum #2. Within ten (10) calendar days of the effective date of this order, GE shall submit to Ecology for written approval, a second technical memorandum assessing the potential health impacts associated with anticipated stack emissions from the approved work plan's proposed vapor intrusion mitigation system. Technical Memorandum #2 shall include an assessment of potential risks and hazards for both an on-site worker receptor and an off-site receptor exposed to the system's emissions. GE shall analyze the impact(s) of anticipated untreated emissions to on- and off-site ground-level reasonable maximum exposed (RME) receptors using the TSCREEN model. If Ecology determines that the resulting potential risks and/or hazards to RME receptors are unacceptable under Chapter 173-340 WAC, GE shall propose actions in the memorandum to reduce potential exposures to acceptable levels. Such actions may include modification of the system or treatment of the exhausted sub-slab vapor prior to discharge.

D. Installation. GE shall do everything in its power to complete installation of the vapor intrusion mitigation system within thirty days of the effective date of this order according to the design described in Exhibit B, subject to the modifications set forth by Ecology by letter in Exhibit C. If GE can not complete installation within this thirty day deadline, do to

circumstances beyond the control of GE such as availability of contractors, GE may request an extension of the thirty day deadline as provided under Section VIII.J.

E. Indoor Air SAP. Ecology will notify GE in writing that the vapor intrusion mitigation installation is complete and identify the post-mitigation indoor air and ambient air sampling stations. Within 14-calendar days of receipt of Ecology's written notification, GE shall submit a sampling and analysis plan (Indoor Air SAP) to Ecology for the collection of post-mitigation installation indoor and ambient air samples at the 220 S. Dawson Street building based on the procedures set forth in Exhibit D, and requirements in WAC 173-340-820, -830 and -840.

GE shall submit the validated data, obtained pursuant to the sampling, to Ecology within 45 calendar days of the sampling event. Ecology will determine the need for additional, future sampling based on whether the results of the previous sampling event(s) indicate that measured indoor air concentrations of TCE continue to exceed the MTCA Method C air cleanup level of  $0.22 \text{ ug/m}^3$ .

F. Information Package. GE shall, within seven (7) calendar days of Ecology written notification that the vapor intrusion mitigation system installation is complete, provide to the building owner and tenants an information packet that contains the following materials. The package shall describe and explain the work the mitigator performed, and include: a) as-built drawings; b) equipment specification sheets; c) a written explanation for how the system works, how to check it, and who to call if there are problems; and, d) a warning to the owner and tenants that alterations to the building or its HVAC system could impact the mitigation system's performance and could even potentially make it easier for soil gases to get into the building. GE shall request that the building owner and tenants notify GE and Ecology prior to making significant building or HVAC system alterations.

G. Engineering Design Report. Within 60-calendar days of written notification by Ecology that mitigation system installation and testing is complete, GE shall submit to Ecology an Engineering Design Report that includes all items in Section 3.2 and B.13 of Exhibit B and the following:

1. A copy of the informational package required under F above.
2. Copies of required inspection approvals by the City of Seattle for compliance with local electrical codes.
3. Written certification by the mitigation installer that the system was installed per the Ecology approved work plan (Exhibits B and C) and per ASTM E 2121-03 standard.
4. Description of any problems encountered and corrective actions taken during the installation and testing.

H. Deliverables. If any memorandum, plan, report or document ("Deliverable") required in this subsection is disapproved, subject to the dispute resolution process set forth in section VIII.I. Ecology shall decide how the Deliverable shall be finalized. Ecology may direct GE to resubmit the Deliverable, corrected per Ecology instructions. In this case, GE shall submit a revised document by a date established in Ecology's comment letter, unless the matter is submitted to dispute resolution in which case the submission shall be stayed pending the dispute resolution. Alternatively, Ecology may modify the document as necessary and approve this as the finalized document.

I. Notifications. GE shall provide phone and electronic mail notification to Ecology as follows:

1. Notice of the mitigation system's construction start date. GE shall provide such notice at least seven (7) calendar days prior to beginning installation of the system.



2. Notice to Ecology within 24-hours after GE's knowledge of any installation or testing problems that result in work interruptions for more than one day.

3. Notice to Ecology within 24-hours after GE's knowledge of deficiencies or violations noted by the City of Seattle electrical inspector.

4. Notice within 48-hours after GE becomes aware of any inspection of the vapor intrusion mitigation system that finds the system is not maintaining negative pressure across the building floor slab or is otherwise less than fully effective.

5. Notice within 48-hours after GE becomes aware of any complaints by the owner or tenants relevant to the vapor intrusion mitigation system.

### **VIII. TERMS AND CONDITIONS OF ORDER**

#### **A. Public Notice**

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

#### **B. Remedial Action Costs**

GE shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for or on the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). GE shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff,

and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

Pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

**C. Implementation of Remedial Action**

If Ecology determines that GE has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to GE, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of GE's failure to comply with its obligations under this Order, GE shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that GE is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, GE shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

**D. Designated Project Coordinators**

The project coordinator for Ecology is:

**Dean Yasuda  
Washington State Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008-5452**

The project coordinator for GE is:

**James W. Sumner  
GE Aviation  
Manager, Group Environmental Programs  
One Neumann Way MD T165  
Cincinnati, OH 45215**

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and GE, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Decree.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

**E. Performance**

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

GE shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

**F. Access**

RCW 70.105D.030(1)(a) authorizes Ecology or any Ecology authorized representative to enter all property at the Site that GE either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*; inspecting records, operation logs, and contracts related to work being performed pursuant to this Order; reviewing GE's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by GE. Ecology or any Ecology authorized representative shall provide reasonable notice (24 hour verbal notice) to the property owner or tenant, unless an emergency prevents such notice. GE shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by GE where remedial activities or investigations will be performed pursuant to this Order. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of property access.

**G. Sampling, Data Submittal, and Availability**

With respect to the implementation of this Order, GE shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, GE shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by GE pursuant to the implementation of this Order. GE shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow GE and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the

implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F (Access), Ecology shall notify GE prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

#### **H. Retention of Records**

During the pendency of this Order, and for ten (10) years from the date of completion of the work performed pursuant to this Order, GE shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, GE shall make all such records available to Ecology and allow access for review within a reasonable time.

#### **I. Resolution of Disputes**

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII.B (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, GE has five (5) calendar days within which to notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within seven (7) calendar days, Ecology's project coordinator shall issue a timely written decision thereafter.

c. GE may then request regional management review of the decision. This request shall be submitted in writing to the Northwest Region Hazardous Waste and Toxic Reduction Section Manager within seven (7) calendar days of receipt of Ecology's project coordinator's written decision.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) calendar days of GE's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

**J. Extension of Schedule**

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least ten (10) calendar days prior to expiration of the deadline for which the extension is requested, and when good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a) The deadline that is sought to be extended;
- b) The length of the extension sought;
- c) The reason(s) for the extension; and
- d) Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on GE to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. The existence of good cause shall be determined by Ecology in its sole discretion. Good cause may include, but may not be limited to:

a) Circumstances beyond the reasonable control and despite the due diligence of GE including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by GE ;

b) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or

c) Endangerment as described in Section VIII.K (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of GE.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give GE written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

a) Delays in the issuance of a necessary permit which was applied for in a timely manner;

b) Other circumstances deemed exceptional or extraordinary by Ecology; or

c) Endangerment as described in Section VIII.K (Endangerment).

#### **K. Endangerment**

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct GE to cease such activities for such period of time as it deems necessary to abate the danger. GE shall immediately comply with such direction.

In the event GE determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, GE may cease such activities. GE shall notify Ecology's project coordinator as soon as possible, but no later than

twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction GE shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with GE's cessation of activities, it may direct GE to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.K (Endangerment), GE's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.J (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

**L. Reservation of Rights**

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against GE to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against GE regarding remedial actions required by this Order providing GE complies with this Order.

Ecology reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

**M. Compliance with Applicable Laws**

1. All actions carried out by GE pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain



necessary permits, except as provided in RCW 70.105D.090. At this time, no federal, state or local requirements have been identified as being applicable to the actions required by this Order.

2. Pursuant to RCW 70.105D.090(1), GE is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, GE shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

GE has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or GE determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or GE shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, GE shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by GE and on how GE must meet those requirements. Ecology shall inform GE in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. GE shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency necessary for the State to administer any federal law, the exemption shall not apply and GE shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

**N. Vapor Mitigation System Operation**

The vapor intrusion mitigation system is designed to run at all times. GE shall notify Ecology immediately by email and telephone at any time when GE becomes aware that the vapor intrusion mitigation system is not operating 24 hours a day, every day. Unless the shutdown is of short duration and can be expeditiously remedied within three (3) business days, GE will provide a written plan and schedule to Ecology for review, modification, and approval describing procedures to restore the vapor intrusion mitigation system to its full time operation within ten (10) calendar days of the immediate notification to Ecology. GE shall implement this plan after Ecology approval. GE shall not make changes to the vapor intrusion mitigation system design and operation without prior written approval from Ecology of the plan. GE shall notify Ecology immediately after it becomes aware of planned or completed renovations or changes to the building that could negatively impact the effectiveness of the vapor intrusion mitigation system.

**O. Amendment of Order.**

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.L (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and GE. Either GE or Ecology may initiate such a request. If GE requests such an amendment, GE shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.I (Resolution of Disputes).

**P. Indemnification**

GE agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of GE, its officers, employees, agents, or contractors in entering into and implementing this Order. However, GE shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

**IX. SATISFACTION OF ORDER**

The provisions of this Order shall be deemed satisfied upon GE's receipt of written notification from Ecology that GE has completed the remedial activity required by this Order, and that GE has complied with all other provisions of this Agreed Order.

**X. ECOLOGY APPROVALS**

All Ecology approved technical memorandums, sampling and analysis plans, procedures, work plans, reports and documents required under this Order are deemed incorporated herein and enforceable parts of this Order

**XI. ENFORCEMENT**

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

A. The Attorney General may bring an action to enforce this Order in a state or federal court.

B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

C. In the event GE refuses, without sufficient cause, to comply with any term of this Order, GE will be liable for:

1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and

2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board.

This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Agreed Order: May 10, 2007

<p><b>STATE OF WASHINGTON DEPARTMENT OF ECOLOGY</b></p> <hr/> <p><i>Julie Sellick</i> Julie Sellick Section Manager Hazardous Waste and Toxics Reduction Program Northwest Regional Office 425.649.7053</p>	<p><b>GE Aviation</b></p> <hr/> <p><i>H Jones</i> by: Harold V Jones General Manager Environmental Affairs and Safety GE Aviation One Neumann Way MD T165 Cincinnati, OH 45215 Dated:</p>
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