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I. INTRODUCTION

A. The mutual objective of the State of Washington, Department of Ecology (Ecology) and the General Electric Company (GE or Defendant) under this Decree is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. As more fully described in the Cleanup Action Plan (Exhibit B), this Decree requires GE to perform actions that include, but are not limited to, the following activities: install, optimize as required, operate, and monitor the effectiveness of a multiphased in-situ treatment, hydraulic control system and vapor intrusion mitigation system, in order to meet soil, groundwater, and indoor air cleanup levels; provide for protection, performance, and confirmation monitoring of the cleanup action taken at the Site; implement institutional controls as necessary; and provide for financial assurance sufficient to complete the cleanup actions.

Ecology has determined that these actions are necessary to protect human health and the environment.

B. The Complaint in this action is being filed simultaneously with this Decree. An Answer has not been filed, and there has not been a trial on any issue of fact or law in this case. However, the Parties wish to resolve the issues raised by Ecology’s Complaint. In addition, the Parties agree that settlement of these matters without litigation is reasonable and in the public interest, and that entry of this Decree is the most appropriate means of resolving these matters. The requirements of this Decree will concurrently satisfy GE’s obligations for corrective action, as set forth in WAC 173-303-64620 (including financial assurance for corrective action).

C. By signing this Decree, the Parties agree to its entry and agree to be bound by its terms.

D. By entering into this Decree, the Parties do not intend to discharge non-settling parties from any liability they may have with respect to matters alleged in the Complaint. The
Parties retain the right to seek reimbursement, in whole or in part, from any liable persons for sums expended under this Decree.

E. This Decree shall not be construed as proof of liability or responsibility for any releases of hazardous substances or cost for remedial action nor an admission of any facts and GE reserves the right to contest any facts or liability determination made herein; provided, however, that GE shall not challenge the authority of the Attorney General and Ecology to enforce this Decree.

F. The Court is fully advised of the reasons for entry of this Decree, and good cause having been shown:

Now, therefore, it is HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

II. JURISDICTION

A. This Court has jurisdiction over the subject matter and over the Parties pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

B. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

C. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree.

D. Ecology has given notice to GE of Ecology’s determination that GE is a PLP for the Site, as required by RCW 70.105D.020(21) and WAC 173-340-500.
E. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment.

F. This Decree has been subject to public notice and comment.

G. Ecology finds that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with the cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC.

H. GE has agreed to undertake the actions specified in this Decree and consents to the entry of this Decree under MTCA.

III. PARTIES BOUND

This Decree shall apply to and be binding upon the Parties to this Decree, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Decree and to execute and legally bind such party to comply with this Decree. GE agrees to undertake all actions required by the terms and conditions of this Decree. No change in ownership or corporate status shall alter GE’s responsibility under this Decree. GE shall provide a copy of this Decree to all contractors and subcontractors retained to perform work required by this Decree, and shall ensure that all work undertaken by such contractors and subcontractors complies with this Decree.

IV. DEFINITIONS

Unless otherwise specified herein, all definitions in RCW 70.105D.020 and WAC 173-340-200 shall control the meanings of the terms in this Decree.

A. Site: The Site is referred to as the former GE Aviation Site. The Site is generally located at 220 South Dawson Street, Seattle, Washington, and all locations where hazardous substances migrating from that property have come to be located. The Site is generally described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(5).
B. Parties: Refers to the State of Washington, Department of Ecology (Ecology) and General Electric Company.

C. Defendant: Refers to General Electric Company.

D. Consent Decree or Decree: Refers to this Consent Decree and each of the exhibits to this Decree. All exhibits are integral and enforceable parts of this Consent Decree. The terms “Consent Decree” or “Decree” shall include all exhibits to this Consent Decree.

E. Days: Shall mean calendar days. The date of the event from which a time period begins to run shall not be included in computing the time period. The last day of a period so computed shall be included in the period unless it is a Saturday, Sunday, or legal holiday recognized by the State of Washington, in which case the period extends to the end of the next calendar day which is not a Saturday, Sunday, or legal holiday recognized by the State of Washington.

V. FINDINGS OF FACTS

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

A. 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, Defendant ceased manufacturing and repair operations at the Property. GE used the Property as warehouse and office space until December 1996, at which time GE vacated the Property and transferred ownership. Since then, various companies have used the building on the Property as a warehouse. Keymac, LLC currently owns the Property.

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

C. During operation of its aircraft parts manufacturing and repair business, GE used petroleum products and chlorinated solvents, including trichloroethylene (TCE), 1,1,1-
trichloroethane (TCA), and perchloroethylene (PCE) at the Property (COCs). Releases of these COCs have occurred to the soils and groundwater at the former GE facility located at 220 South Dawson Street, Seattle, Washington.

D. Prior to signing Agreed Order DE02HWTRNR-4686 in 2002, GE voluntarily undertook independent remedial actions at the Site. Between December 1995 and August 1996, GE excavated more than 3,000 tons of soil from the Site and sent it off-site for treatment in a high-temperature cement kiln. During this time, GE removed from the Property all soils with concentrations of total petroleum hydrocarbons and chlorinated volatile organic compounds (CVOCs) that exceeded MTCA cleanup levels based on residential exposure scenarios that were in effect at that time, with the exception of soils below the water table and three small areas where soil excavation was not feasible due to proximity to existing structures.

E. In August 1996, as an independent action, GE began operating a shallow groundwater extraction system on the Property. The system has extracted to date in excess of 100 million gallons of shallow groundwater at the Site. GE also conducted periodic groundwater sampling and provided reports on these activities to Ecology on a regular basis.

F. Based on data from investigations conducted at the Site by GE under the 2002 order, Ecology has determined that groundwater downgradient of the Property is known to be contaminated from releases of hazardous substances at the Property. GE’s investigations have detected TCE, PCE, 1,1,1-TCA, vinyl chloride, cis-1,2 dichloroethylene, trans-1,2 dichloroethylene, 1,1-dichloroethylene, arsenic, and 1,4 dioxane in groundwater beneath and/or downgradient of the Property. Many of these COCs exceeded the MTCA Method B groundwater cleanup levels.

G. The Site is located in an industrial portion of the Duwamish River Valley. Land uses are predominantly light industrial (e.g. manufacturing and warehousing) with some
commercial businesses, occasional residences, and vacant lots. The Property is zoned
Industrial General 2 Unlimited/85 and the adjacent properties and properties between the site
and the Duwamish Waterway are also zoned for industrial purposes. Two residences are
located immediately south of the site: one appears to be vacant and both are located between
industrial facilities.

H. The previous Agreed Order, DE 02HWTRNR-4686 required GE to conduct
groundwater interim actions and remedial investigations, and to investigate vapor intrusion
within buildings above the contaminated groundwater.

I. Pursuant to Agreed Order DE 02HWTRNR-4686, GE installed a new recovery
well, a new shallow monitoring well, an intermediate monitoring well, and several
downgradient monitoring wells from 2002-2005; GE collected quarterly groundwater samples
and provided the results to Ecology; and GE conducted an investigation of downgradient
groundwater using geoprobes in 2002 and collected data for evaluating natural attenuation
parameters in February 2004. Sampling was conducted in August 2003 and February 2004 to
assess the potential for site groundwater to geochemically alter metal concentrations in
groundwater. Analysis of groundwater for 1,4 dioxane was also required by Ecology and
conducted by GE in 2004 and 2005.

J. GE performed several rounds of modeling to evaluate the indoor air pathway
for the former GE building as well as for the downgradient Liberty Ridge and former Interior
Environments buildings. GE sampled indoor and sub-slab air at the former GE building and
indoor air at the former Interior Environments building.

K. 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 of TCE were measured above the MTCA Method C air cleanup level in several
occupied businesses within the 220 South Dawson Street building. The MTCA Method C air
cleanup level as applied by Ecology in these circumstances is a protective level set based on the assumption that a person working in the building is exposed to TCE vapor twenty-four (24) hours per day, seven (7) days per week, for thirty (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. Indoor air TCE concentrations in some areas of the building also exceeded Ecology’s remediation level set for the interim action based on a forty (40) hour per week worker scenario. Under Agreed Order No. DE 4258, GE installed a vapor intrusion mitigation (VIM) system as an interim action to reduce a threat to human health and to reduce TCE concentrations to levels below the MTCA Method C air cleanup level.

L. GE conducted a remedial investigation under Agreed Order No. DE 02HWTRNR-4686. GE also prepared a feasibility study under Agreed Order No. DE 5477. Based on the Focused Feasibility Study Report (FFS Report), as modified and approved by Ecology in a letter dated December 24, 2009, Ecology has selected Modified Remedial Alternative 2, as described in the CAP (Exhibit B) as a final cleanup action for the Site.

VI. WORK TO BE PERFORMED

This Decree contains a program designed to protect human health and the environment from the known release, or threatened release, of hazardous substances or contaminants at, on, or from the Site.

A. GE shall perform a final cleanup action for the Site by implementing the Modified Alternative 2 remedy set forth in the CAP (Exhibit B) in accordance with the Scope of Work and Schedule (Exhibit C); and agrees also, if it is so determined by Ecology, that GE shall perform the contingent remedy as described in the CAP. Completion of the work herein shall supplant and satisfy all previous Agreed Orders between GE and Ecology, including but not limited to Agreed Orders No. DE02HWTRNR-4686, No. DE 5477, and No. DE 4258. Certain work items from these superseded Agreed Orders are described by Exhibits G, H, and
I, and are incorporated into Exhibit C to this Decree (Scope of Work and Schedule). GE shall continue to perform these items as ongoing work until the Engineering Design Report (EDR) is approved and implemented.

B. GE agrees not to perform any remedial actions outside the scope of Section VI.A above specifically, or generally, of this Decree unless the Parties agree to modify the Scope of Work and Schedule (Exhibit C) and Ecology modifies the Cleanup Action Plan (Exhibit B) to cover these actions. All work conducted by GE under this Decree shall be done in accordance with Chapter 173-340 WAC unless otherwise provided herein.

C. Ecology shall issue written notice of completion that the requirements of this Decree have been satisfactorily completed when the work as described in the CAP has been performed.

VII. DESIGNATED PROJECT COORDINATORS

The project coordinator for Ecology is:

Dean Yasuda
Washington State Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA  98008-5452
(425) 649-7264
Email:  dyas461@ecy.wa.gov

The project coordinator for Defendant is:

Tom Antonoff
U.S. Remedial Project Manager - Legacy Site CoE
GE
319 Great Oaks Blvd
Albany, NY  12203
Phone: (518) 862-2720
Email:  tom.antonoff@ge.com

Each project coordinator shall be responsible for overseeing the implementation of this Decree. 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 Decree 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.

VIII. PERFORMANCE

All geologic and hydrogeologic work performed pursuant to this Decree 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 (in this section, “direct” shall not mean personal presence at the Site).

All engineering work performed pursuant to this Decree 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 Decree 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 Decree, in advance of their involvement at the Site.

IX. ACCESS

Ecology or any Ecology authorized representative shall have full authority to enter and freely move about 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 the work being performed pursuant to this Decree; reviewing GE’s progress in carrying out the terms of this Decree; 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 Decree; and verifying the data submitted to Ecology by GE. Ecology or any Ecology authorized representative shall provide reasonable notice as provided under WAC 173-340-800 to GE and the property owner or tenant whenever it seeks direct physical access to GE’s remedial equipment when GE or GE’s representatives are not present, unless an emergency has been determined and 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 Decree; provided subject to the language above, that Ecology may make unannounced visits with the permission of the owners or tenants of the Site. All Parties 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 Site property access.

X. SAMPLING, DATA SUBMITTAL, AND AVAILABILITY

With respect to the implementation of this Decree, 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 XI (Progress Reports), 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 Decree. 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 Decree, provided that doing so does not interfere with Ecology’s sampling. Without limitation on Ecology’s rights under Section IX (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.

**XI. PROGRESS REPORTS**

A. GE shall submit to Ecology written Progress Reports that describe the actions taken during the previous month(s) to implement the requirements of this Decree. The Progress Reports shall include the following:

1. A list of on-site activities that have taken place since the last reporting period;
2. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests;
3. Description of all deviations from the Scope of Work and Schedule (Exhibit C) and Cleanup Action Plan (Exhibit B) during the current month and any planned deviations in the upcoming month;

4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule;

5. All raw data (including laboratory analyses) received by GE during the past month and an identification of the source of the sample; and

6. A list of deliverables for the upcoming month if different from the schedule.

B. Progress reports shall be submitted to Ecology in accordance with the following schedule:

1. Quarterly during preparation of the Engineering and Design Report, until such report is approved.

2. Monthly, during the construction of any phase of the optimized hydraulic control & in-situ chemical oxidation system or contingent remedy.

3. Quarterly, after Ecology approval of all portions of the constructed optimized hydraulic control & in-situ chemical oxidation system.

C. All Progress Reports shall be submitted by the fifteenth (15th) day of the month in which they are due after the effective date of this Decree. Unless otherwise specified, Progress Reports and any other documents submitted pursuant to this Decree shall be sent by the GE project coordinator by certified mail, return receipt requested, to Ecology’s project coordinator.

XII. RETENTION OF RECORDS

During the pendency of this Decree, and for ten (10) years from the date this Decree is no longer in effect as provided in Section XXVIII (Duration of Decree), GE shall preserve all records, reports, documents, and underlying data in its possession relevant to the
implementation of this Decree and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, GE shall make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Decree is intended by GE to waive any right it may have under applicable law to limit disclosure of documents protected by the attorney work-product and/or attorney/client privilege. If GE withholds any requested records based on an assertion of privilege, it shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No actual data collected on Site pursuant to this Decree shall be considered privileged.

XIII. TRANSFER OF INTEREST IN PROPERTY

The following conditions apply to the extent GE holds or in the future comes to hold any interest in all or any portion of the Site.

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by GE without provision for continued operation and maintenance of any containment system, treatment system, and/or monitoring system installed or implemented pursuant to this Decree.

Prior to GE’s transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, GE shall provide a copy of this Decree to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, GE shall notify Ecology of said transfer. Upon transfer of any interest, GE shall restrict uses and activities to those consistent with this Consent Decree and notify all transferees of the restrictions on the use of the property.

XIV. RESOLUTION OF DISPUTES

A. 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 XXIV (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

1. Upon receipt of Ecology’s project coordinator’s written decision, or the itemized billing statement, GE has fourteen (14) days within which to notify Ecology’s project coordinator in writing of its objection to the decision or itemized statement.

2. The Parties’ project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days of Ecology’s receipt of GE’s written notice of objection, unless a longer period is mutually agreed to by the Parties, Ecology’s project coordinator shall issue a written decision.

3. GE may then request regional management review of the decision. This request shall be submitted in writing to the Hazardous Waste & Toxics Reduction Program’s Northwest Region Section Manager within seven (7) days of receipt of Ecology’s project coordinator’s written decision.

4. Ecology’s Hazardous Waste & Toxics Reduction Program’s Northwest Region Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of GE’s request for review.

5. If GE finds Ecology’s Hazardous Waste & Toxics Reduction Program’s Northwest Region Section Manager’s decision unacceptable, GE may then request final management review of the decision. This request shall be submitted in writing to the Ecology Hazardous Waste & Toxics Reduction Program Manager within seven (7) days of receipt of the Hazardous Waste & Toxics Reduction Program’s Northwest Region Section Manager’s decision.
6. Ecology’s Hazardous Waste & Toxics Reduction Program Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of GE’s request for review of the Hazardous Waste & Toxics Reduction Program’s Northwest Region Section Manager’s decision. The decision of the Hazardous Waste & Toxics Reduction Program Manager shall be Ecology’s final decision on the disputed matter.

B. If Ecology’s final written decision is unacceptable to GE, GE has the right to submit the dispute to the Court for resolution. The Parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree. In the event GE presents an issue to the Court for review, the Court shall review the action or decision of Ecology on the basis of whether such action or decision was arbitrary and capricious, or any other standard applicable under RCW 70.105D.060.

C. 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. Where either party utilizes the dispute resolution process in bad faith or for purposes of delay, the other party may seek sanctions.

D. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court so orders.

XV. AMENDMENT OF DECREE

The project coordinators may agree to minor changes to the work to be performed without formally amending this Decree. Minor changes will be documented in writing by Ecology, within seven (7) to fourteen (14) days of verbal commitment, including a decision by Ecology to direct GE to implement the contingent remedial action.
Substantial changes to the work to be performed shall require formal amendment of this Decree. This Decree may only be formally amended by a written stipulation among the Parties that is entered by the Court, or by order of the Court. Such amendment shall become effective upon entry by the Court. Agreement to amend the Decree shall not be unreasonably withheld by any party.

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 the Decree is a substantial change, Ecology will provide public notice and opportunity for comment. Reasons for the disapproval of a proposed amendment to the Decree 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 XIV (Resolution of Disputes).

**XVI. EXTENSION OF SCHEDULE**

A. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least fourteen (14) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

1. The deadline that is sought to be extended;
2. The length of the extension sought;
3. The reason(s) for the extension; and
4. Any related deadline or schedule that would be affected if the extension were granted.

B. 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. Good cause may include, but may not be limited to:
1. 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;

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

3. Endangerment as described in Section XVII (Endangerment).

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

C. 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 Decree.
A requested extension shall not be effective until approved by Ecology or, if required, by the
Court. Ecology shall not unreasonably deny a request for extension of time. Unless the
extension is a substantial change, it shall not be necessary to amend this Decree pursuant to
Section XV (Amendment of Decree) when a schedule extension is granted.

D. 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:

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

2. Other circumstances deemed exceptional or extraordinary by
Ecology; or

3. Endangerment as described in Section XVII (Endangerment).
XVII. 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, 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 this section, 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 XVI (Extension of Schedule), for such period of time as Ecology determines is reasonable under the circumstances.

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

XVIII. COVENANT NOT TO SUE

A. Covenant Not to Sue: In consideration of Defendant’s compliance with the terms and conditions of this Decree, Ecology covenants not to institute legal or administrative actions against Defendant regarding the release or threatened release of hazardous substances covered by this Decree.
This Decree covers only the Site specifically identified in this Consent Decree and those hazardous substances that Ecology knows are located at the Site as of the date of entry of this Decree. This Decree does not cover any other hazardous substance or area. Ecology retains all of its authority relative to any substance or area not covered by this Decree.

This Covenant Not to Sue shall have no applicability whatsoever to:

1. Criminal liability;
2. Liability for damages to natural resources; and
3. Any Ecology action, including cost recovery, against PLPs not a party to this Decree.

If factors not known at the time of entry of the settlement agreement are discovered and present a previously unknown threat to human health or the environment, the Court shall amend this Covenant Not to Sue.

B. Reopeners: Ecology specifically reserves the right to institute legal or administrative action against Defendant to require it to perform additional remedial actions at the Site and to pursue appropriate cost recovery, pursuant to RCW 70.105D.050 under the following circumstances:

1. Upon Defendant’s failure to meet the requirements of this Decree, including, but not limited to, failure of the remedial action to meet the cleanup standards identified in the CAP (Exhibit B);
2. Upon Ecology’s determination that remedial action beyond the terms of this Decree is necessary to abate an imminent and substantial endangerment to human health or the environment;
3. Upon the availability of new information regarding factors previously unknown to Ecology, including the nature or quantity of hazardous substances at the
Site, and Ecology’s determination, in light of this information, that further remedial action is necessary at the Site to protect human health or the environment; or

4. Upon Ecology’s determination that additional remedial actions beyond those described in the CAP (which include the contingent remedy described in Section 7 of the CAP) are necessary to achieve cleanup standards within the reasonable restoration time frame set forth in the CAP. For the purposes of this reopener, “the reasonable restoration timeframe set forth in the CAP” anticipates the possibility, as described in Section 7 of the CAP, that a contingent remedy may need to be implemented in the event Modified Alternative 2, with optimized or not-optimized hydraulic control, does not achieve the Site cleanup levels. “The reasonable restoration timeframe set forth in the CAP” further includes any timeframes that may be revised as necessary per WAC 173-340-360(4). An Ecology determination that it is necessary to implement the contingent remedy procedures set forth in Section 7 of the CAP will not trigger this reopener.

C. Except in the case of an emergency, prior to instituting legal or administrative action against Defendant pursuant to this section, Ecology shall provide Defendant with fifteen (15) calendar days notice of such action.

XIX. CONTRIBUTION PROTECTION

With regard to claims for contribution against GE, the Parties agree that GE is entitled to protection against claims for contribution for matters addressed in this Decree as provided by RCW 70.105D.040(4)(d). The “matters addressed” in this Consent Decree are all remedial actions taken or to be taken and all remedial costs (including Ecology’s oversight costs) incurred or to be incurred by Ecology or any other person with respect to the Site.
XX. LAND USE RESTRICTIONS

GE shall make good faith efforts to cause restrictive covenants substantially in the form of Exhibit D-1 (for 220 South Dawson Street property and any other properties that may have both soil and groundwater contamination) and Exhibit D-2 (for downgradient groundwater plume properties) to be recorded with the office of the King County Auditor by the current owners of properties within the Site within one year of the finalization of the Engineering Design Report (EDR). The restrictive covenants shall restrict future uses of the Site as specified in the CAP, Section 6.1, item 18. GE shall provide Ecology with a copy of the recorded restrictive covenants within thirty (30) days of the recording date. If GE is unable to secure such covenants, GE shall provide notice to Ecology of its inability to secure such covenants within ten (10) days of the completion of the remedial action, together with a description of its good faith efforts to secure such covenants.

XXI. FINANCIAL ASSURANCE

A. Financial assurance for remedial action is required by WAC 173-340-440(11) and WAC 173-303-64620(1) and (2). Ecology’s Financial Assurance Officer shall determine when GE’s actions and submissions meet the requirements of these provisions.

B. GE must submit the original executed or otherwise finalized financial assurance instruments or documents to Ecology’s Financial Assurance Officer; facsimiles or photocopies are not acceptable to meet this requirement. In addition, GE must also submit copies of financial assurance instruments or documents to Ecology’s project coordinator.

C. Unless otherwise specified, the definitions and requirements for allowable financial assurance mechanisms set forth in the current financial assurance rules covering closure and post-closure (40 C.F.R. § 264.141, 40 C.F.R. § 264.142, 40 C.F.R. § 264.143, 40 C.F.R. § 264.145, 40 C.F.R. § 264.148, 40 C.F.R. § 264.151, and WAC 173-303-620) will be the definitions and requirements for allowable financial assurance for remedial actions under this Decree. It is the intention of the Parties that these definitions and requirements will
apply to this remedial action, and the words “remedial action” are hereby substituted for the words “closure,” “post closure,” “post-closure,” or “postclosure” in the above listed regulations as needed to produce this result.

D. Ecology’s Financial Assurance Officer will use the following resources as guidance (in no particular order of importance):


2. The financial assurance provisions of Corrective Action for Releases from Solid Waste Management Units at Hazardous Waste Management Facilities Advance Notice of Proposed Rulemaking, 61 Fed. Reg. 19432 (May 1, 1996);

3. The Interim Guidance on Financial Responsibility for Facilities Subject to RCRA Corrective Action (U.S. EPA, Sept. 30, 2003); and/or

4. Any other guidance applicable to financial assurance and corrective or remedial action that may be available at the time.

The financial assurance provisions of the Corrective Action for Solid Waste Management Units at Hazardous Waste Management Facilities, 55 Fed. Reg. 30798 (July 27, 1990), may be used as secondary guidance at the discretion of Ecology. Unless otherwise specified herein, where the language of this Decree conflicts with these rules, proposed rules, notices, and guidance documents, the language of this Decree shall prevail.

E. Within thirty (30) days from the effective date of this Decree, GE shall submit to Ecology for review and approval a written cost estimate to cover the activities listed in the Scope of Work and Schedule (Exhibit C). If Ecology rejects GE’s cost estimate as submitted, Ecology shall provide to GE a revised cost estimate amount that will be the approved cost estimate. Ecology will, if requested by GE in writing, provide a written explanation of the
variance between GE’s proposed cost estimate and Ecology’s approved cost estimate. Within thirty (30) days after Ecology’s final approval of GE’s cost estimate amount or GE’s receipt of Ecology’s approved cost estimate amount, GE shall establish and maintain continuous coverage of financial assurance in the amount of the approved cost estimate and submit the applicable financial assurance documentation per paragraph B of this section. If Ecology does not accept, reject, or revise GE’s cost estimate within sixty (60) days after submittal, GE’s cost estimate will be deemed approved for purposes of this paragraph. Ecology reserves the right to review and revise GE’s cost estimate after the 60-day review period. If Ecology revises the GE’s cost estimate after the 60-day review period, GE will have thirty (30) days after the revision to provide an updated financial assurance instrument.

F. If GE is required to submit an additional work plan(s) under this Decree, or to conduct activities related to remedial action not previously part of the original cost estimate, the process outlined in paragraph E above shall apply in the submission process of an additional work plan(s).

G. If GE believes that the estimated cost of work to complete activities under this Decree has diminished below the amount covered by existing financial assurance provided under this Decree, GE may submit a written proposal to Ecology to reduce the amount of the financial assurance provided under this section so that the amount of the financial assurance is equal to the estimated cost of the remaining work to be performed. The written proposal shall specify, at a minimum, the cost the remaining work to be performed and the basis upon which such cost was calculated. If Ecology decides to accept such a proposal, Ecology shall notify GE of its decision in writing. After receiving Ecology’s written decision, GE may reduce the amount of financial assurance only in accordance with and to the extent permitted by such written decision. Within thirty (30) days after receipt of Ecology’s written decision, GE shall submit the applicable financial assurance documentation per paragraph B of this section. No
change to the form or terms of any financial assurance provided under this section, other than a reduction in amount, is authorized under this paragraph.

H. All cost estimates must be based on the costs to the owner or operator of hiring a third party to complete the work. A third party is neither a parent nor a subsidiary of GE. On a case-by-case basis, Ecology may also determine that a company which shares a common higher-tier corporate parent or subsidiary might not qualify as a third party. A cost estimate may not incorporate any salvage value that may be realized with the sale of wastes, facility structures or equipment, land, or other assets associated with the facility. GE may also not incorporate a zero cost for wastes that might have economic value.

I. GE shall annually adjust all cost estimates for inflation. Adjustments for inflation shall be calculated in accordance with the procedure outlined in 40 C.F.R. § 264.143(b).

J. Acceptable financial assurance mechanisms are trust funds, surety bonds, letters of credit, insurance, the financial test, and the corporate guarantee. Ecology may allow other financial assurance mechanisms if they are consistent with the laws of Washington and if GE demonstrates to the satisfaction of Ecology that those mechanisms provide adequate financial assurance.

K. If GE is using the financial test or corporate guarantee to meet its financial assurance obligation, the annual inflationary adjustment shall occur within ninety (90) days after the close of GE’s fiscal year. If GE is using any mechanism other than the financial test or corporate guarantee, this adjustment shall occur each year within thirty (30) days after the anniversary of the effective date of this Decree.

L. If GE seeks to establish financial assurance by using a surety bond for payment or a letter of credit, GE shall at the same time establish and thereafter maintain a standby trust fund acceptable to Ecology into which funds from the other financial assurance instrument can
be deposited, if the financial assurance provider is directed to do so by Ecology, pursuant to the terms of this Decree.

M. GE shall notify Ecology’s project coordinator and Financial Assurance Officer by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming GE as debtor, within ten (10) days after commencement of the proceeding. A guarantor of a corporate guarantee must make such a notification if it is named as debtor as required under the terms of the corporate guarantee.

N. Once GE has established financial assurance with an acceptable mechanism as described above, GE will be deemed to be without the required financial assurance:

1. In the event of bankruptcy of the trustee or issuing institution; or
2. If the authority of the trustee institution to act as trustee has been suspended or revoked; or
3. If the authority of the institution issuing the surety bond, letter or credit, or insurance policy has been suspended or revoked.

In the event of bankruptcy of the trustee or a suspension or revocation of the authority of the trustee institution to act as a trustee, GE must establish a replacement financial assurance mechanism by any means specified in WAC 173-303-620 or other financial instrument as approved by Ecology within sixty (60) days after such an event.

O. Ecology’s Financial Assurance Officer is:

Kimberly Goetz
Department of Ecology
Hazardous Waste and Toxics Reduction Program
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6754
Fax: (360) 407-6715
E-mail: kimberly.goetz@ecy.wa.gov
XXII. INDEMNIFICATION

Defendant 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 Defendant, its officers, employees, agents, or contractors in entering into and implementing this Decree. However, Defendant 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 Decree.

XXIII. COMPLIANCE WITH APPLICABLE LAWS

A. All actions carried out by GE pursuant to this Decree 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. The permits or other federal, state, or local requirements that Ecology has determined are applicable and that are known at the time of entry of this Decree have been identified in Exhibit F.

B. 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 RCW as it relates to state Waste Discharge Permits, and Chapter 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. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Decree, have been identified in Exhibit F.

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 Decree. 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 Decree, it shall promptly notify the other party of this determination. Ecology and GE shall jointly 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 Decree. GE shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

C. 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 that is 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.

XXIV. REMEDIAL ACTION COSTS

GE shall pay to Ecology costs incurred by Ecology pursuant to this Decree 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 Decree preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the entry of this Decree. 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 $58,314.56 to Ecology for settlement of remedial action.
costs related to this Site as of June 30, 2011. Payment shall be submitted within thirty (30) days of the effective date of this Decree, and any claim for the balance shall be released. Ecology shall not attempt to collect costs for any additional time incurred prior to June 30, 2011. For all costs incurred subsequent to June 30, 2011, GE shall pay the required amount within thirty (30) 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.

In addition to other available relief, 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.

XXV. 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 thirty (30) days written 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 Decree, GE shall reimburse Ecology for the costs of doing such work in accordance with Section XXIV (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 Decree. GE and Ecology agree to first meet and confer before Ecology exercises its option under this section.
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 Decree, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section XV (Amendment of Decree).

XXVI. PERIODIC REVIEW

As remedial action, including groundwater monitoring, continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. At least every five (5) years after the initiation of cleanup action at the Site the Parties shall meet to discuss the status of the Site and the need, if any, for further remedial action at the Site. At least ninety (90) days prior to each periodic review, GE shall submit a report to Ecology that documents whether human health and the environment are being protected based on the factors set forth in WAC 173-340-420(4). Ecology reserves the right to require further remedial action at the Site under appropriate circumstances.

XXVII. PUBLIC PARTICIPATION

A Public Participation Plan (Exhibit E) is required for this Site. Ecology shall review any existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan alone or in conjunction with GE.

Ecology shall maintain the responsibility for public participation at the Site. However, GE shall cooperate with Ecology, and shall:

A. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and
distribute such fact sheets and prepare and distribute public notices of Ecology’s presentations and meetings.

B. Notify Ecology’s project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments, except as set forth below. Likewise, Ecology shall notify GE prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments, except as set forth below. For all press releases, fact sheets, meetings, and other outreach efforts by GE that do not receive prior Ecology approval, GE shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology. This section does not apply to communications by GE that are required or conducted pursuant to law(s) or regulations other than MTCA or the MTCA Cleanup Regulation, Chapter 173-340 WAC, or communications by GE with investors or insurance carriers.

C. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions, or as a presenter.

D. When requested by Ecology, arrange and/or continue information repositories at the following locations:

1. New Holly Library
   7058 32nd Avenue S.
   Seattle, WA  98118

2. Department of Ecology
   Northwest Regional Office
   3190 160th Avenue SE
   Bellevue, WA  98008-5452
At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained at these repositories.

**XXVIII. DURATION OF DECREED**

The remedial program required pursuant to this Decree shall be maintained and continued until GE has received written notification from Ecology that the requirements of this Decree have been satisfactorily completed. This Decree shall remain in effect until dismissed by the Court. When dismissed, Section XVIII (Covenant Not to Sue) and Section XIX (Contribution Protection) shall survive, in addition to any other sections that explicitly extend beyond the duration of the decree. Periodic review is not a basis for continuation of this Decree.

**XXIX. CLAIMS AGAINST THE STATE**

GE hereby agrees that it will not seek to recover any costs accrued in implementing the remedial action required by this Decree from the State of Washington or any of its agencies; and further, that GE will make no claim against the State Toxics Control Account or any local Toxics Control Account for any costs incurred in implementing this Decree. Except as provided above, however, GE expressly reserves its right to seek to recover any costs incurred in implementing this Decree from any other PLP. This section does not limit or address funding that may be provided under Chapter 173-322 WAC.

**XXX. EFFECTIVE DATE**

This Decree is effective upon the date it is entered by the Court.
XXXI. WITHDRAWAL OF CONSENT

If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying Complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

ROBERT M. MCKENNA
Attorney General

Katherine B. Seiler
Program Manager
Hazardous Waste & Toxics Reduction Program
(360) 407-6702

Date: ________________

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GENERAL ELECTRIC CO.

K&L GATES LLP
Attorneys for Defendant

Ann R. Klee
Vice President
Environmental Health and Safety

Dated: ________________

William H. Chapman, WSBA #14294
Partner
(206) 623-7580

ENTERED this _____ day of ________________ 20____.

JUDGE
King County Superior Court