

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

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:  
IN THE MATTER OF THE :  
HUDSON RIVER PCBs SUPERFUND SITE :  
:  
:  
GENERAL ELECTRIC COMPANY, : INDEX NO.  
:  
:  
:  
Respondent : CERCLA-02-2003-2027  
:  
:  
Proceeding under Sections 104 and 122 of the :  
Comprehensive Environmental Response, :  
Compensation, and Liability Act, as amended, :  
42 U.S.C. §§ 9604 and 9622. :  
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ADMINISTRATIVE ORDER ON CONSENT  
FOR  
REMEDIAL DESIGN AND COST RECOVERY

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## I. INTRODUCTION

1. This Administrative Order on Consent ("Consent Order") is entered into voluntarily by General Electric Company (hereinafter, "GE" or the "Respondent") with the United States Environmental Protection Agency ("EPA"). This Consent Order concerns the performance of Remedial Design activities needed for implementation of EPA's February 2002 selected remedy for the Hudson River PCBs Superfund Site ("Site"), located in the State of New York. This Consent Order also addresses reimbursement by Respondent to EPA for certain costs which have been incurred by EPA, or the Department of Justice on behalf of EPA, in connection with the Site, as well as certain costs which will be incurred by EPA, or the Department of Justice on behalf of EPA, in connection with the Site.

## II. JURISDICTION

2. This Consent Order is issued to Respondent by EPA pursuant to the authority vested in the President of the United States under Sections 104(a) and (b), 107(a), 122(a) and (d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9604(a) and (b), 9607(a), 9622(a) and (d)(3), which authority was delegated to the Administrator of EPA on January 23, 1987 by Executive Order 12580, 52 Fed. Reg. 2926 (1987), and further delegated to the Regional Administrators of EPA on September 13, 1987 by EPA Delegation 14-14-C.

3. Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order. Respondent consents to and agrees not to contest the authority or jurisdiction of the Regional Administrator of EPA Region 2 or her delegate to issue or enforce this Consent Order, and also agrees not to contest the validity or terms of this Consent Order in any action to enforce its provisions.

## III. PARTIES BOUND

4. This Consent Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent agrees that its officers, directors, employees and agents involved in the performance of the Work required by this Consent Order shall take all necessary steps to accomplish the performance of said Work in accordance with this Consent Order. The signatory to this Consent Order on behalf of Respondent certifies that he/she is authorized to execute and legally bind Respondent to this Consent Order. No change in the ownership or corporate status or other control of Respondent or of its facilities or the Site shall alter Respondent's responsibilities under this Consent Order.

5. Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any Work performed under this

Consent Order, within fourteen (14) days after the effective date of this Consent Order or the date of retaining their services, whichever is later. Respondent shall condition any such contracts upon satisfactory compliance with this Consent Order. Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Consent Order and for ensuring that its employees, contractors, consultants, subcontractors and agents comply with this Consent Order.

#### IV. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in this Consent Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or its implementing regulations. Whenever terms listed below are used in this Consent Order or in the appendices attached hereto, the following definitions shall apply:

- a. “ACE” shall mean the United States Army Corps of Engineers.
- b. “Baseline Monitoring QAPP” shall mean the Quality Assurance Project Plan for the Baseline Monitoring Program.
- c. “CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.
- d. “Day” shall mean a calendar day unless expressly stated to be a working day. “Working day” shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Consent Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- e. “EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.
- f. “National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and codified at 40 C.F.R. Part 300, including any amendments thereto.
- g. “NYSDEC” shall mean the New York State Department of Environmental Conservation and any successor departments or agencies of the State.
- h. “NYSDOH” shall mean the New York State Department of Health and any successor departments or agencies of the State.

- i. “Paragraph” shall mean a portion of this Consent Order identified by an Arabic numeral.
- j. “Past Response Costs” shall mean all costs, including all direct and indirect costs, that EPA (or the U.S. Department of Justice on behalf of EPA) paid, prior to February 1, 2002, in connection with response actions relating to the Site, and all interest on such costs in accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- k. “Phase 1” shall mean the first construction season of remedial dredging at the Site.
- l. “Phase 2” shall mean the remainder of the remedial dredging operation, which shall be conducted after Phase 1.
- m. “RD Response Costs” shall mean the costs not inconsistent with the NCP, paid by EPA, or the U.S. Department of Justice on behalf of EPA, in: (a) overseeing Respondent’s implementation of the requirements of this Consent Order; (b) obtaining access for the Work required hereunder, or a property interest for or relating to the sediment processing/transfer facility(ies) needed for the Remedial Action (provided that, for purposes of this Consent Order only, the term “RD Response Costs” does not include that portion, if any, of those amounts paid to an entity from whom such access or property interest is sought which, taking into account the transaction costs likely to be incurred in obtaining such access or property interest by judicial or other means, is significantly out of proportion with the fair market value of the access rights or property interest obtained); (c) conducting any other activities related to the Work, including but not limited to community relations activities related to the Work; (d) developing and seeking public input on performance standards for the Remedial Action; (e) conducting any work relating to the siting of sediment processing/transfer facilities to be used in the Remedial Action or the development of a plan for the Community Involvement Program to be employed during the Remedial Design and Remedial Action; and (f) reviewing and commenting on Respondent’s Remedial Design Work Plan and Revised CHASP, developing requirements for the baseline monitoring program, and negotiating this Consent Order. However, for purposes of this Consent Order, “RD Response Costs” do not include any costs which fall within the definition of “Future Response Costs” that is set forth in Paragraph 84 of the Sampling AOC. To the extent that the State participates in any of the activities covered by items (a)-(f) above pursuant to a Cooperative Agreement or Superfund State Contract with EPA, the costs not inconsistent with the NCP that EPA pays the State under that Cooperative Agreement or Superfund State Contract for such participation by the State are included within the meaning of “RD Response Costs.” Items (a) - (c) above are included in the definition of RD Response Costs to the extent that such costs are paid by EPA, or the U.S.

Department of Justice on behalf of EPA, on or after the effective date of this Consent Order. Items (d) and (e) above are included in the definition of RD Response Costs to the extent that such costs are for any activities conducted on or after February 2, 2002. Item (f) above is included in the definition of RD Response Costs to the extent that such costs are for activities conducted on or after July 27, 2002. RD Response Costs will include all direct and indirect costs, including but not limited to, any time and travel costs of personnel, contractor costs (including annual allocation costs), costs of reviewing data submitted by Respondent under this Consent Order, costs of compliance monitoring, including the collection and analysis of split samples, discussions regarding disputes that may arise as a result of this Consent Order, and costs of redoing any of Respondent's tasks.

- n. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Site signed on February 1, 2002 by the Administrator of EPA and the Regional Administrator of EPA Region 2, including all attachments thereto.
- o. "Remedial Action" shall mean those activities, except for Operation and Maintenance, to be undertaken to implement the remedy selected in the ROD, in accordance with plans approved by EPA. For purposes of this Consent Order, "Remedial Action" includes, but is not limited to, the construction of the sediment processing/transfer facility(ies) which EPA determines is/are needed for the implementation of the remedy selected in the ROD.
- p. "Remedial Design" or "RD" shall mean those activities to be undertaken by Respondent to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design Work Plan.
- q. "Remedial Design Work Plan" or "RD Work Plan" shall mean Respondent's August, 2003 Remedial Design Work Plan for the Site and the appendices thereto (which consist of the Baseline Monitoring Program Scoping Document, Habitat Delineation and Assessment Work Plan, and Cultural and Archeological Resources Assessment Work Plan). The Remedial Design Work Plan has been approved by EPA and is incorporated into and is an enforceable part of this Consent Order. The Remedial Design Work Plan is attached hereto as Appendix 1.
- r. "Respondent" shall mean General Electric Company.
- s. "Revised CHASP" shall mean the Revised Community Health and Safety Plan. The Revised CHASP is attached hereto as Appendix 2.

- t. “Sampling AOC” shall mean Administrative Order on Consent, Index No. CERCLA-02-2002-2023, which EPA issued to Respondent on July 23, 2002 with respect to the Site.
- u. “Section” shall mean a portion of this Consent Order identified by an upper-case Roman numeral and includes one or more Paragraphs.
- v. “Site” shall mean the Hudson River PCBs Superfund Site, located in the State of New York.
- w. “State” shall mean NYSDEC and NYSDOH.
- x. “United States” shall mean the United States of America.
- y. “Waste Material” shall mean (i) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (ii) any “pollutant or contaminant” under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (iii) any “solid waste” under Section 1004(27) of the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6903(27).
- z. “Work” shall mean all activities Respondent is required to perform under this Consent Order, except those required by Section XVIII (Record Preservation).

#### V. STATEMENT OF PURPOSE

- 7. In entering into this Consent Order, the objectives of EPA and Respondent are:
  - a. To perform the Remedial Design of the remedy selected in the ROD (with the exception of (i) those activities which EPA intends to conduct itself (including development and issuance of performance standards, siting of sediment processing/transfer facilities, and development of a Community Involvement Program); and (ii) the sediment characterization activities that will be performed by Respondent pursuant to the Sampling AOC); and
  - b. To provide for the reimbursement to the United States of certain response costs which have been or will be incurred by the United States in connection with the Site.

#### VI. EPA’S FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 8. During an approximate 30-year period ending in 1977, manufacturing processes at two GE facilities, one in Fort Edward, New York, and the other in Hudson Falls, New York, used



polychlorinated biphenyls (“PCBs”) in the manufacture of electrical capacitors. PCBs from both facilities were discharged into the Hudson River.

9. In September 1984, EPA placed the Site on the National Priorities List, established pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and set forth at 40 C.F.R. Part 300, Appendix B.

10. In September 1984, EPA issued a Record of Decision (the “1984 ROD”) for the Site which included: (i) an interim no action decision with regard to PCBs in the sediments of the Upper Hudson River; (ii) in-place capping, containment, and monitoring of exposed “remnant deposit” sediments, and stabilization of the associated riverbanks and revegetation of those areas; and (iii) a detailed evaluation of the Waterford Water Works treatment facilities, including sampling and analysis of treatment operations to see if an upgrade or alteration of the facilities was needed.

11. GE implemented the remedial action selected in the 1984 ROD for the remnant deposits pursuant to a 1990 consent decree with EPA. GE is conducting maintenance and long-term monitoring activities under the consent decree.

12. NYSDEC, with EPA funding, conducted a treatability study at the Waterford Water Works. The study was released in 1990 and found that PCB concentrations in Hudson River water were below analytical detection limits after treatment and met standards applicable to public water supplies.

13. In 1989, EPA decided to reassess the interim no-action decision in the 1984 ROD with respect to PCB-contaminated Hudson River sediments. Beginning in 1990, EPA conducted a Reassessment Remedial Investigation and Feasibility Study which included, *inter alia*, analyses of the fate, transport, and human health and environmental risks associated with PCB contamination at the Site.

14. In December 2000, EPA issued the Reassessment Feasibility Study in which the Agency evaluated potential remedial alternatives to address PCB contamination at the Site. Concurrently with the Reassessment FS, EPA issued a Proposed Plan in which EPA identified its preferred remedial alternative for the Site. EPA held a public comment period on the Proposed Plan and supporting information from December 12, 2000 through April 17, 2001.

15. On February 1, 2002, EPA issued a Record of Decision (“ROD”) in which EPA selected a remedial action for the Site. The remedy selected in the ROD includes, *inter alia*, the targeted dredging and off-site disposal of approximately 2.65 million cubic yards of contaminated sediment from the Upper Hudson River.

16. On July 23, 2002, EPA and Respondent entered into the Sampling AOC, pursuant to which Respondent agreed to conduct sampling, analysis, and geophysical characterization of Hudson River sediments.
17. Implementation of the selected remedy will require the performance of Remedial Design activities that are in addition to (i) the sediment characterization activities already required by the Sampling AOC; and (ii) those activities which EPA intends to conduct itself (including development and issuance of performance standards, siting of sediment processing/transfer facilities, and development of the Community Involvement Program).
18. Respondent agrees to conduct the Remedial Design activities required by this Consent Order.
19. PCBs are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
20. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
21. Releases of hazardous substances have occurred at the Site, as the term "release" is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22). Such releases include, but are not limited to, PCBs that were discharged to the Hudson River from GE's Hudson Falls and Fort Edward facilities.
22. Respondent is a corporation organized and existing under the laws of the State of New York. Respondent therefore is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21). Respondent is a responsible party with respect to the Site under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
23. Respondent has discussed with EPA the basis for this Consent Order and its terms.
24. The actions required by this Consent Order are necessary to protect the public health or welfare or the environment, are in the public interest, and are consistent with CERCLA and the NCP, 40 C.F.R. Part 300.

## VII. NOTICE

25. By providing a copy of this Consent Order to the NYSDEC, EPA is notifying the State of New York that this Consent Order is being issued and that EPA is the lead agency for coordinating, overseeing, and enforcing the response actions required by this Consent Order.

## VIII. WORK TO BE PERFORMED

26. a. \_\_\_\_\_ All aspects of the Work conducted by the contractors listed in subparagraph 26.b., below, or any contractors approved under Paragraph 27, below, shall be under the overall direction and supervision of Respondent's Project Coordinator identified in Paragraph 70, below.
- b. The following contractors of Respondent have been approved by EPA to carry out the following aspects of the Work:
- i. Blasland, Bouck & Lee, Inc. for general remedial design engineering and habitat delineation/assessment;
  - ii. Environmental Standards, Inc. for quality assurance/quality control;
  - iii. Exponent, Inc. to assist in habitat delineation/assessment;
  - iv. Quantitative Environmental Analysis, LLC for chemical and physical sampling and monitoring; and
  - v. URS Corporation for cultural and archaeological resources assessment.

27. Other Contractors and Personnel. In addition to the contractors specified in Paragraph 26, Respondent shall, within seven (7) days of the effective date of this Consent Order, provide written notice to EPA of the names, titles, and qualifications of any other contractors, subcontractors, consultants and laboratories (collectively referred to in this Section as "contractors") to be used in carrying out the Work required under this Consent Order; provided, however, that if particular contractors have not been selected by that date, Respondent shall provide such written notice to EPA within seven (7) days of their selection. Respondent shall only use qualified personnel for the Work. The qualifications of the contractors undertaking the Work for Respondent shall be subject to EPA's review for verification that such contractors meet appropriate technical background and experience requirements. If EPA disapproves, in writing, of any contractor's technical qualifications, Respondent shall notify EPA of the identity and qualifications of the replacement(s) within fourteen (14) days of the date of the written notice. If EPA subsequently disapproves of the replacement(s), EPA reserves the right to terminate this Consent Order, to conduct the Work required hereunder and seek reimbursement for the costs thereof, and/or take other appropriate action. During the course of performing the Work required by this Consent Order, Respondent shall notify EPA in writing of any changes in or additions to the contractors used to carry out such Work, including the contractors listed in Paragraph 26, above, providing their names, titles, and qualifications. EPA shall have the same right to approve or disapprove changes in and additions to contractors as it has hereunder regarding the initial notification.

28. Respondent shall demonstrate that each contractor proposed pursuant to Paragraph 27, above, has a quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995) by submitting a copy of the proposed contractor's Quality Management Plan (QMP) to EPA at the same time that Respondent identifies the proposed contractor to EPA; provided, however, that this requirement shall not apply to contractors for whom QMPs were already submitted to EPA under the Sampling AOC or to laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP") and the New York State Environmental Laboratory Approval Program ("SELAP"), or as otherwise agreed to by EPA. The QMP shall be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

29. Remedial Design

- a. Respondent's Remedial Design Work Plan, attached hereto as Appendix 1, has been approved by EPA.
- b. Respondent shall conduct the Work in accordance with the RD Work Plan, which is incorporated into and is an enforceable part of this Consent Order.

30. Within 120 days of the effective date of this Consent Order or upon the date required for submission of the Dredge Area Delineation Report for candidate Phase 1 areas (whichever is later), Respondent shall submit to EPA and the State a draft Phase 1 Target Area Identification Report in which Respondent shall propose the areas to be dredged in Phase 1 of the Remedial Action. It is the current expectation of EPA and Respondent that the Phase 1 target areas will be areas that are unlikely to require re-dredging during Phase 2. EPA will either approve Respondent's draft Phase 1 Target Area Identification Report, or require modifications in accordance with this Consent Order. Respondent's proposed target areas for Phase 1 shall satisfy the following requirements:

- a. The Phase 1 target areas shall collectively consist of an acreage and volume of sediments that can be actively remediated (*i.e.*, through dredging and appropriate backfilling) in a single field season. For purposes of this subparagraph, a field season shall be the period from May 1 through November 30, unless EPA agrees otherwise.
- b. The Phase 1 target areas shall, to the extent practicable, collectively embody a range of river conditions (*e.g.*, rocky areas, varying water depths, the navigational channel, varying thicknesses of sediment to be removed) that are representative of the river conditions that are anticipated to be encountered during Phase 2 of the Remedial Action.

- c. The Phase 1 target areas collectively shall, to the extent practicable, provide a suitable test for the potential range of dredging, handling, and transport equipment and procedures that are expected for Phase 2 of the Remedial Action.

31. EPA will, after consultation with New York State and Respondent, issue a Draft Facility Siting Report that will identify the location(s) that best satisfy the criteria for the sediment processing/transfer facility(ies) to be used in the Remedial Action. Criteria that will be considered by EPA in evaluating, screening and identifying potential locations for the sediment processing/transfer facility(ies) include the criteria that are set forth in EPA's Hudson River PCBs Superfund Site Facility Siting Concept Document dated December 2002. Thereafter, EPA will select the location(s) for the sediment processing/transfer facility(ies) for Phase 1 and, later, the location(s) for the sediment processing/transfer facility(ies) for Phase 2. Following EPA's issuance of the Draft Facility Siting Report and prior to the selection of the final location(s) for the sediment processing/transfer facility(ies) for Phase 1 and Phase 2, Respondent may submit to EPA a proposal for the final location(s) for the sediment processing/transfer facility(ies) for each such phase. EPA will consider Respondent's proposal for such location(s) for each such phase, provided that Respondent submits such proposal at least 30 days prior to EPA's scheduled selection of the final location(s) for Phase 1 and Phase 2. For purposes of the preceding sentence, Respondent is informed that EPA currently expects to select the Phase 1 sediment processing/transfer facility location(s) in April 2004 and the Phase 2 sediment processing/transfer facility location(s) in August 2004. If EPA's expectation changes as to when such selection will occur, EPA will so notify Respondent. Following EPA's selection of the location(s) for the sediment processing/transfer facility(ies) for each phase, EPA will notify Respondent of the selected location(s).

32. EPA and Respondent agree to work cooperatively during the facility siting process to help ensure that the evaluation and selection of location(s) for the sediment processing/transfer facility(ies) and the Remedial Design each takes account of the other. Respondent shall design the sediment processing/transfer facility(ies) for the location(s) that are selected by EPA.

33. The ROD includes performance standards for air emissions, and preliminary performance standards for noise emissions. EPA will invite public input regarding the preliminary noise standards before finalizing the noise standards. In addition, consistent with the ROD, EPA will develop other performance standards during the RD with input from the public and in consultation with the State and federal natural resource trustees (including, but not necessarily limited to, standards concerning resuspension rates during dredging, production rates during dredging, PCB residuals after dredging, PCB air emissions, and certain types of community impacts). Prior to their finalization, the performance standards addressing resuspension rates during dredging, production rates during dredging, and PCB residuals after dredging (or after dredging with backfill, as appropriate), and the attendant monitoring program, will be subject to independent peer review as guided by the ROD.

34. Consistent with the ROD, the performance standards will be based on objective environmental and scientific criteria. The performance standards will promote accountability and be designed to ensure that the Remedial Action meets the human health and environmental protection objectives of the ROD.

35. Prior to finalization of the performance standards for Phase 1, and prior to finalization of any revisions to those standards prior to Phase 2, EPA and Respondent will discuss how the performance standards relate to and will be accounted for in the Remedial Design. After the performance standards for Phase 1 (or any revisions to them for Phase 2) are finalized, EPA will notify Respondent of the performance standards (or any revisions thereto). The Remedial Design shall be consistent with, and fully take account of, these performance standards. If at any point during the design process Respondent comes to the conclusion that any of the performance standards cannot be met, Respondent shall promptly notify EPA.

36. Within twenty-one (21) days of the effective date of this Consent Order, Respondent shall submit to EPA and the State a draft revised Health and Safety Plan (“Revised HASP”), which shall be based on the HASP finalized under the Sampling AOC but shall incorporate changes necessary to cover the field activities to be conducted under this Consent Order. EPA will review the draft Revised HASP and may request modifications thereto. Upon finalization of the Revised HASP, it shall supersede the HASP that was finalized pursuant to the Sampling AOC.

37. The Revised HASP must specify employee training, protective equipment and medical surveillance requirements, standard operating procedures, and a contingency plan, as those items relate to all field activities required by the RD Work Plan. The Revised HASP shall satisfy the requirements of the *Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities* (October 1985, DHHS NIOSH Publication No. 85-115), and any update thereto, and the following requirements:

- a. All Site activities shall be performed in such a manner as to ensure the safety and health of personnel so engaged. All Site activities shall be conducted in accordance with all pertinent general industry (29 C.F.R. Part 1910) and construction (29 C.F.R. Part 1926) U.S. Department of Labor, Occupational Safety and Health Administration (“OSHA”) standards, and EPA's *Standard Operating Safety Guides* (OSWER, 1988), as well as any applicable State laws. All Site activities shall comply with those requirements set forth in OSHA’s final rule entitled *Hazardous Waste Operations and Emergency Response*, 29 C.F.R. § 1910.120.
- b. The Revised HASP shall include, at a minimum, the following items:
  - i. Plans showing the location and layout of any temporary facilities to be constructed on or near the Site;

- ii. Description of the known hazards and evaluation of the risks associated with the Work at the Site and the potential health impacts related to such Work;
- iii. List of key personnel and alternates responsible for Site safety and response operations;
- iv. Description of levels of protection (based on specified standards) to be utilized by all personnel;
- v. Delineation of work, decontamination, and safe zones, and definitions of the movement between zones;
- vi. Description of decontamination procedures for personnel and equipment, and handling and removal of disposable clothing or equipment;
- vii. Procedures that address emergency care for personnel injuries and adverse health effects from exposure, and containment measures. These procedures shall include evacuation routes, internal and external communications procedures for response to fire, explosion, or other emergencies, the name of the nearest hospital and the route to that hospital. Local agencies with the capability to respond to emergencies shall be identified and their capabilities shall be described. A description of the procedures for informing the community of these measures shall be outlined;
- viii. Description of the personnel medical surveillance program in effect;
- ix. Description of monitoring for personnel safety; and
- x. Description of routine and special personnel training programs.

38. Respondent shall provide EPA with a copy of the final Revised HASP. Respondent shall comply with the final Revised HASP.

39. If additional field activities are identified during the course of the Work under this Consent Order that are not covered by the Revised HASP, Respondent shall submit to EPA and the State addenda to the Revised HASP to cover such additional field activities. EPA will review such addenda and may request modifications thereto. Respondent shall comply with any such addenda.

40. Prior to the effective date of this Consent Order, Respondent submitted to EPA and the State a site-specific Revised CHASP, which has been approved by EPA and which is

attached hereto as Appendix 2 and incorporated into and an enforceable part of this Consent Order. Respondent shall comply with the approved Revised CHASP.

41. If additional field activities are identified during the course of the Work under this Consent Order that are not covered by the Revised CHASP, Respondent shall submit to EPA and the State draft addenda to the Revised CHASP to cover such additional field activities. Such addenda shall be consistent with the requirements applicable to the initial CHASP under Paragraph 28 of the Sampling AOC, and with any EPA-approved modifications or additions incorporated in the Revised CHASP. EPA will either approve Respondent's draft addenda to the Revised CHASP, or require modifications in accordance with this Consent Order. Upon approval by EPA, such addenda shall be deemed to be incorporated in, and an enforceable part of, this Consent Order, and shall be complied with by Respondent.

42. Within thirty (30) days of the effective date of this Consent Order, Respondent shall submit to EPA and the State for review a draft Baseline Monitoring QAPP for the baseline monitoring work to be conducted pursuant to this Consent Order.

43. The Baseline Monitoring QAPP shall be consistent with *EPA Requirements for Quality Assurance Project Plans* (EPA QA/R-5, EPA/240/B-01/003, March 2001) and with the Baseline Monitoring Program Scoping Document appended to the RD Work Plan. All sampling, analysis, and data assessment and monitoring performed in connection with the Work shall be performed in accordance with this Consent Order, including all attachments hereto, and the EPA-approved Baseline Monitoring QAPP. All testing methods and procedures shall be fully documented and referenced to established methods or standards or to methods or standards approved by EPA for use in conducting the Work. In addition to the information referred to in Paragraph 44, below, the Baseline Monitoring QAPP shall include, at a minimum, the following items, which shall incorporate or be consistent with the comparable provisions of the Baseline Monitoring Program Scoping Document:

- a. A detailed description of the Data Quality Objectives (including why the data are being collected, how they will be used, what they will be compared to, and how they will be interpreted) to ensure that all data collected are relevant to the decision making process, as well as to ensure that appropriate analytical techniques are selected;
- b. A detailed description of all sampling, analysis, and testing to be performed, including sampling methods, analytical and testing methods, sampling locations and frequency of sampling;
- c. A map depicting sampling locations; and
- d. A schedule for performance of specific tasks.



44. The Baseline Monitoring QAPP shall address the following elements:
- a. Project Management
    - i. Title and approval sheet;
    - ii. Table of contents and document control format;
    - iii. Distribution list;
    - iv. Project/task organization and schedule;
    - v. Problem definition/background;
    - vi. Project/task description;
    - vii. Quality objectives and criteria for measurement data;
    - viii. Special training requirements/certification; and
    - ix. Documentation and records.
  - b. Measurement/Data Acquisition
    - i. Sampling process design;
    - ii. Sampling method requirements;
    - iii. Sample handling and custody requirements;
    - iv. Archival procedures for samples and sample extracts;
    - v. Analytical method requirements;
    - vi. Quality control requirements;
    - vii. Instrument/equipment testing, inspection, and maintenance requirements;
    - viii. Instrument calibration and frequency;
    - ix. Inspection/acceptance requirements for supplies and consumables;
    - x. Data acquisition requirements (non-direct measurements); and

- xi. Data management.
- c. Assessment/Oversight
  - i. Assessments and response actions;
  - ii. The process to address nonconformances and deviations from the Baseline Monitoring QAPP. The process shall include, but is not limited to, documentation of deficiency(ies), notification of findings, request for corrective action, implementation of corrective action, and follow-up assessment of the corrective action's effectiveness; and
  - iii. Reports to management.
- d. Data Validation and Usability
  - i. Data review, validation, and verification requirements (e.g., acceptance criteria);
  - ii. Validation and verification methods; and
  - iii. Reconciliation with data quality objectives.
- e. In order to provide quality assurance and maintain quality control with respect to all samples to be collected, Respondent shall ensure the following:
  - i. Respondent shall use laboratories that have obtained NELAP and SELAP certification for all analytical methods that are used pursuant to this Consent Order for which such certifications are available. For each laboratory that has obtained NELAP and SELAP certification for an analytical method to be used for analyses performed under this Consent Order, Respondent shall provide documentation to EPA which demonstrates that the laboratory has such certifications for the specific methods/matrices and analyses to be performed.
  - ii. For all analytical methods specified in the Baseline Monitoring Program Scoping Document for which NELAP or SELAP certifications are not available, the Baseline Monitoring QAPP shall include supporting documentation demonstrating how the method has been verified for all matrices to be analyzed. The Baseline Monitoring QAPP shall also include the Standard Operating Procedures (SOPs) for all methods

specified in the Baseline Monitoring Program Scoping Document for which NELAP or SELAP certifications are not available.

- iii. All laboratories utilized for analyses of samples must perform all analyses in accordance with the approved Baseline Monitoring QAPP.
- iv. All analytical data shall be verified, or verified and validated, upon receipt from the laboratory, as required by the Baseline Monitoring QAPP.
- v. Respondent shall submit to EPA, in yearly Baseline Monitoring Data Summary Reports, a data validation report or reports containing the information required by the EPA-approved Baseline Monitoring QAPP. These annual Baseline Monitoring Data Summary Reports shall be submitted in accordance with the schedule in the RD Work Plan, and may be combined with the annual monitoring summary reports for the Post-Construction Remnant Deposit Monitoring Program which are required by the Consent Decree in *United States v. General Electric Co., Inc.*, Civil Action No. 90-CV-575 (N.D.N.Y.), entered on July 21, 1990.
- vi. Unless indicated otherwise in the EPA-approved Baseline Monitoring QAPP, Respondent shall require deliverables equivalent to Contract Lab Program (CLP) data packages from the laboratory(ies) for analytical data. EPA reserves the right to perform an independent data validation, data validation check, or qualification check on generated data.
- vii. Respondent shall insert a provision in its contract(s) with the laboratory(ies) utilized for analyses of samples, which will require the laboratory(ies) to grant access to EPA personnel and authorized representatives of the EPA for the purpose of ensuring the accuracy of laboratory results related to the Site.

45. EPA will either approve the draft Baseline Monitoring QAPP, or require modifications in accordance with this Consent Order. Following EPA approval of the draft Baseline Monitoring QAPP, the Baseline Monitoring QAPP shall be deemed to be incorporated in, and an enforceable part of, this Consent Order, and shall be complied with by Respondent.

46. If Respondent proposes to use for the Work any sampling, analytical test, or data validation method that is not approved for use under the Baseline Monitoring QAPP or another QAPP or work plan approved pursuant to this Consent Order, Respondent must obtain EPA approval for such proposed method before such method may be used for samples collected under this Consent Order. Respondent shall provide to EPA and the State full documentation of the rationale for proposing the alternative method, how the method has been verified, why this method is more appropriate than standard methods or the previously approved methods, and what

will be the benefit of using this method, as well as the SOPs for the proposed method.

47. Remedial Design Schedule

- a. A detailed schedule for all tasks called for by the RD Work Plan is set forth in Table 4 of the RD Work Plan. Respondent shall comply with that schedule.
- b. It is the goal of EPA and Respondent that the integrated implementation of design tasks to be respectively conducted by EPA and Respondent will result in the completion of the Remedial Design for Phase 1 dredging in the Spring of 2005, and the completion of the Remedial Design for Phase 2 dredging in the Spring of 2006. EPA and Respondent intend to work collaboratively toward achieving such goal. Such goal, in and of itself, is not intended to be a binding obligation on Respondent under this Consent Order.
- c. During the course of the Work under this Consent Order, Respondent shall submit to EPA and the State proposed revisions or supplements to the approved schedule, as needed, to reflect any additional tasks to be performed or unanticipated or changed circumstances. EPA may approve or disapprove such proposed revisions or supplements, or require modifications in accordance with this Consent Order. Respondent shall comply with any such approved, revised, modified or supplemental schedule, subject to its right to invoke dispute resolution under Section XIX of this Consent Order regarding EPA's decision on revisions, modifications, or supplements to the schedule.

48. Respondent shall conduct the Work required hereunder in accordance with CERCLA, the NCP, and the ROD, as well as applicable provisions of the following guidance documents, and of other guidance documents referenced in the following guidance documents: *EPA Requirements for Quality Assurance Project Plans* (EPA QA/R-5, EPA/240/B-01/003, March 2001), *Guidance for Quality Assurance Project Plans* (EPA QA/G-5, EPA/240/R-02/009, December 2002), *Guidance for Scoping the Remedial Design* (EPA 540/R-95/025, March 1995), and *Guide to Management of Investigation-Derived Wastes* (OSWER Publication 9345.3-03FS, January 1992), as they may be amended or modified by EPA, provided that if Respondent believes that such amendments or modifications, if applied in this case, would materially expand the scope of the Work, then Respondent may invoke the dispute resolution provisions of Section XIX, below. The tasks that Respondent must perform (including future deliverables) and the scope of such Work are identified in this Consent Order and in the RD Work Plan, which is incorporated into and is an enforceable part of this Consent Order. Each deliverable required pursuant to this Consent Order shall be deemed incorporated into and an enforceable part of this Consent Order upon its approval by EPA. In the event EPA approves a portion of a plan, report, or other item required to be submitted to EPA under this Consent Order, the approved portion shall be deemed to be incorporated in and an enforceable part of this Consent Order, subject to Paragraph 53, below. Respondent shall perform the Work in accordance with the RD Work Plan and other

deliverables approved, modified or issued by EPA under this Consent Order, as they may be modified or amended pursuant to Section X below, and Respondent shall also comply with all other requirements of this Consent Order.

49. Respondent shall assure that field personnel used by Respondent are properly trained in the use of field equipment and in chain-of-custody procedures.

#### IX. EPA REVIEW OF SUBMISSIONS

50. EPA reserves the right to comment on, approve or disapprove, modify, and/or direct changes to all deliverables submitted under this Consent Order, provided that any such modifications or changes are not inconsistent with the ROD, are consistent with this Consent Order and do not materially expand the scope of the Work, and provided further that EPA will not itself modify the initial submission of a deliverable listed in Paragraph 52.a. without first providing Respondent an opportunity to correct any identified deficiencies and resubmit the deliverable, as described below. If EPA disapproves or otherwise requires any such modifications to any plan, report, or other item required to be submitted to EPA for approval pursuant to this Consent Order, other than a Dredge Area Delineation Report, the Preliminary Design Report, an Intermediate Design Report, or a Final Design Report, Respondent shall have twenty-one (21) days from the receipt of such notice of disapproval or the required modifications, or a longer period if agreed to by EPA in writing or a shorter period if agreed to by Respondent in writing, to correct the deficiencies and resubmit the plan, report or other written document (or portion thereof, as instructed by EPA) to EPA for approval. In the case of a Dredge Area Delineation Report, the Preliminary Design Report, an Intermediate Design Report, or a Final Design Report, Respondent shall have thirty (30) days from the receipt of notice of disapproval or the required modifications, or a longer period if agreed to by EPA in writing or a shorter period if agreed to by Respondent in writing, to correct the deficiencies and resubmit the relevant report (or portion thereof, as instructed by EPA) to EPA for approval. Any notice of disapproval will include an explanation of why the plan, report, or other item is being disapproved. Respondent shall address each of the comments and resubmit the plan, report, or other item (or portion thereof, as instructed by EPA) with the required changes within the time stated above. At such time as EPA determines that the plan, report, or other item is acceptable, EPA will transmit to Respondent a written notice to that effect.

51. If EPA notifies Respondent of deficiencies in Respondent's draft Preliminary Design Report or the draft Intermediate Design Report for Phase 1 or Phase 2, Respondent and EPA shall, as appropriate, discuss the deficiencies identified by EPA and the steps Respondent proposes to take to address such deficiencies. If so directed by EPA, Respondent shall correct those deficiencies in the context of the next Design Report for Phase 1 or Phase 2 (as the case may be) rather than resubmitting a corrected version of the same draft Design Report to EPA; provided, however, that if Respondent disagrees with EPA's determination on the steps that Respondent must take to correct the deficiencies identified by EPA, Respondent may invoke the dispute resolution procedures set forth in Section XIX below.

52. a. Subject to subparagraph 52.b., below, Respondent may invoke the dispute resolution procedures set forth in Section XIX below in the event of a dispute between Respondent and EPA regarding EPA's disapproval of, or required revisions to, the following deliverables to be submitted under this Consent Order:

- i. Baseline Monitoring QAPP;
- ii. Preliminary Design Report;
- iii. Phase 1 Target Area Identification Report;
- iv. A Dredge Area Delineation Report;
- v. Treatability Studies Work Plan;
- vi. A Supplemental Engineering Data Collection Work Plan;
- vii. An Archaeological Resources Assessment Report;
- viii. A Supplemental Engineering Data Collection Report;
- ix. A Habitat Assessment Report;
- x. A Biological Assessment;
- xi. Intermediate Design Report for Phase 1;
- xii. Intermediate Design Report for Phase 2;
- xiii. Final Design Report for Phase 1;
- xiv. Final Design Report for Phase 2; and
- xv. Any revision of the above.

b. Notwithstanding any other provision of this Consent Order, Respondent may not invoke the dispute resolution procedures more than once regarding the same issue. For example, if Respondent invokes the dispute resolution procedures with respect to an issue raised by EPA's comments on the Intermediate Design Report for Phase 1, and said issue is resolved under Section XIX, below, Respondent may not invoke the dispute resolution procedures with respect to the same issue later, in the context of a subsequent RD deliverable.

53. If EPA approves only a portion of a deliverable, and determines in writing that the

approved portion is not dependent upon the unapproved portion, then Respondent shall, if so directed by EPA, proceed to implement the approved portion of the deliverable while Respondent corrects the deficiencies in the remaining portion. For purposes of the RD schedule in Table 4 of the RD Work Plan, if EPA approves only a portion of a deliverable, the time allotted in the schedule for Respondent's performance of a subsequent task that is dependent upon EPA approval of that deliverable shall not begin to run until that deliverable is approved in its entirety, unless EPA determines in writing that the unapproved portion is not necessary for the performance of that subsequent activity. In the event that Respondent disagrees with an EPA determination regarding whether an approved portion of a deliverable is, for purposes of this Paragraph, dependent upon an unapproved portion of that deliverable, or whether an unapproved portion of a deliverable is not necessary for the performance of a subsequent activity, Respondent may invoke the dispute resolution provisions of Section XIX of this Consent Order.

54. In the event that Respondent amends or revises a report, plan or other submittal upon receipt of EPA comments, if EPA in its sole discretion subsequently disapproves of the revised submittal or any portion thereof (consistent with Paragraph 50), or if subsequent submittals do not fully reflect EPA's directions for changes related to performance of the Work required by this Consent Order (consistent with Paragraph 50), or if Respondent fails to amend or revise a report, plan or other submittal upon receipt of EPA comments, Respondent shall be deemed to be out of compliance with this Consent Order, and EPA may, in its sole discretion: (a) seek stipulated or statutory penalties; (b) again direct Respondent to revise the submittal; (c) itself amend or prepare the plan or other document; and/or (d) seek any other appropriate relief, including but not limited to taking over the Work. If EPA chooses option (c), the plan or other document shall be deemed incorporated in and an enforceable part of this Consent Order upon its amendment or issuance by EPA, and Respondent shall implement the work plan or other document as amended or prepared by EPA. Respondent may invoke the dispute resolution procedures set forth in Section XIX below in the event of a dispute between Respondent and EPA regarding any EPA determination or action under this Paragraph relating to one of the deliverables listed in Paragraph 52.a., above.

55. The failure of EPA to either expressly approve, disapprove, or comment upon Respondent's submissions within a specified time period(s) shall not be construed as approval by EPA.

## X. MODIFICATION OF WORK PLANS

56. If, at any time during implementation of the Work required by this Consent Order, Respondent identifies a need for additional data to complete the Work required by this Consent Order, other than data that already are required to be collected or generated under the RD Work Plan or any other work plan or other deliverable approved or modified by EPA under this Consent Order, Respondent shall promptly, after determining such need, submit to EPA a memorandum documenting the need for such additional data, and a plan for the collection of such data. Pursuant to this Consent Order, EPA in its sole discretion will determine whether

such additional data are necessary and will be collected by Respondent, and whether the data will be incorporated into reports and deliverables. Respondent shall not proceed with the additional data gathering prior to receiving EPA's approval. In the event EPA determines that such data should not be collected, Respondent shall have the right to invoke the dispute resolution procedures set forth in Section XIX of this Consent Order.

57. EPA may determine that, in addition to those tasks called for by the RD Work Plan and/or the approved Baseline Monitoring QAPP, and the tasks listed in Paragraph 17, certain additional work is necessary to complete the RD. In that event, EPA may require, pursuant to this Consent Order, that Respondent perform such additional work if such work, alone or in combination with other additional work required by EPA, is not inconsistent with the ROD and would not materially expand the scope of the Work required under this Consent Order. Respondent may invoke the dispute resolution procedures of Section XIX if Respondent disagrees with EPA regarding the need for such additional work or regarding whether such work, alone or in combination with other additional work required by EPA, is inconsistent with the ROD, or would materially expand the scope of the Work. Subject to EPA resolution of any such dispute pursuant to Section XIX, Respondent shall submit for EPA review and approval a work plan for implementing the additional tasks which EPA determines are necessary. In the event of a dispute between Respondent and EPA regarding EPA's action on such work plan, Respondent may invoke the dispute resolution procedures of Section XIX. Subject to EPA resolution of any such dispute pursuant to Section XIX, Respondent shall implement the activities set forth in that work plan as approved or modified by EPA. The additional work shall be completed according to the standards, specifications and schedules set forth or approved by EPA in a written modification to the RD Work Plan and/or other appropriate plan. EPA reserves the right to conduct the additional work itself at any point, to seek reimbursement for the costs associated with the work from Respondent, and/or to seek any other appropriate relief.

58. In the event that EPA determines that unanticipated or changed circumstances at the Site, or conditions posing an immediate threat to human health or welfare or the environment, warrant revisions to the RD Work Plan or other plan or deliverable which is required and approved under this Consent Order, EPA will initially discuss such revisions with Respondent. If EPA and Respondent agree on any such revisions, the plan or other deliverable will be revised accordingly. If EPA and Respondent are unable to agree on any such revisions within fourteen (14) days (or a shorter period, as determined by EPA, if the circumstances are such that more immediate action is needed), EPA may, under this Consent Order, modify or amend, or direct Respondent to modify or amend, such plan or deliverable accordingly, provided that such modifications are not inconsistent with the ROD and do not materially expand the scope of the Work required under this Consent Order. Respondent shall implement the Work required under such plan or deliverable as modified or amended; provided, however, that Respondent may invoke the dispute resolution procedures set forth in Section XIX, below, in the event of a dispute between Respondent and EPA regarding EPA's modification or required modification of the plan or deliverable.



## XI. REPORTING REQUIREMENTS

59. Until the termination of this Consent Order, Respondent shall prepare and provide EPA and the State with written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Consent Order during the previous month; (2) include all results of sampling, tests, and all other verified or validated data received or generated by or on behalf of Respondent during the previous month in the implementation of the Work required by this Consent Order; (3) describe all actions, data and plans which are scheduled for the next two months and provide other information relating to the progress of Work as is customary in the industry, including, but not limited to, a graphical depiction of the progress of the Work; (4) identify any modifications to the RD Work Plan or other work plan(s) that Respondent proposed to EPA or that have been approved by EPA during the previous month; and (5) include information regarding all delays encountered or anticipated that may affect the future schedule for completion of the Work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays. Respondent's monthly progress reports submitted pursuant to this Paragraph shall be signed by Respondent's Project Coordinator or his designee. These progress reports shall be submitted to EPA and the State by Respondent by the fifteenth (15<sup>th</sup>) day of every month following the effective date of this Consent Order. In addition to the addressees listed in Paragraph 60 below, one copy of each monthly progress report shall be sent to:

Director, Hudson River Field Office  
U.S. Environmental Protection Agency Region 2  
421 Lower Main Street  
Fort Edward, New York 12839

60. All work plans, reports, notices and other documents required to be submitted to EPA and the State under this Consent Order shall be sent by certified mail, return receipt requested, by overnight delivery or by courier to the following addressees:

3 copies: Team Leader, Hudson River Team  
(1 unbound) Emergency and Remedial Response Division  
United States Environmental Protection Agency, Region 2  
290 Broadway, 19<sup>th</sup> Floor  
New York, New York 10007-1866

1 copy: Chief, New York/Caribbean Superfund Branch  
Office of Regional Counsel  
United States Environmental Protection Agency, Region 2  
290 Broadway, 17<sup>th</sup> Floor  
New York, New York 10007-1866

Attn: Hudson River PCBs Superfund Site Attorney

3 copies: Director, Division of Environmental Remediation  
(1 unbound) New York State Department of Environmental Conservation  
625 Broadway, 12<sup>th</sup> Floor  
Albany, New York 12233-7011

Attn: Hudson River PCBs Superfund Site

2 copies: Director, Bureau of Environmental Exposure Investigation  
New York State Department of Health  
547 River Street  
Troy, New York 12180

Attn: Hudson River PCBs Superfund Site

If agreed to in advance by EPA, specific notifications and other documents to be submitted by Respondent pursuant to this Paragraph may be submitted by electronic mail. If so requested by EPA, and in addition to the document submission requirements above, Respondent shall send up to three additional copies of specified work plans or other documents to NYSDEC. All responses, notices, and other communications from EPA to Respondent under or in connection with this Consent Order will be sent, at a minimum, to GE's Project Coordinator designated in Paragraph 70, below.

61. All reports and other documents submitted by Respondent to EPA (other than the monthly progress reports discussed above) which purport to document Respondent's compliance with the terms of this Consent Order shall be signed by Respondent's Project Coordinator or a responsible official of the Respondent.

62. Respondent shall give EPA and the State at least fourteen (14) days advance notice of all field work or field activities to be performed by Respondent pursuant to this Consent Order; provided, however, that in a given instance, if it is impossible for Respondent to provide such notice, Respondent shall provide notice to EPA and the State of all such field work or activities as far in advance of such work as is possible. In any event, any notification pursuant to this Paragraph shall be given at least twenty-four (24) hours prior to the given field activities, unless EPA agrees otherwise.

## XII. ENDANGERMENT, EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

63. Upon the occurrence of any event during performance of the Work required by this Consent Order which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, Respondent shall, immediately upon obtaining knowledge of such event, orally notify the Team Leader, Hudson River Team, Emergency and Remedial Response Division, EPA

Region 2, (212) 637-3952 (or, in the event of the unavailability of the Team Leader, one of the EPA Project Coordinators) and the State, in addition to the reporting required by Section 103 of CERCLA, 42 U.S.C. § 9603. Within fourteen (14) days of the onset of such an event, Respondent shall also furnish EPA with a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. A copy of the report shall be sent simultaneously to the State. Notifications provided to the State by Respondent pursuant to this Paragraph shall be provided to:

William Ports  
Project Manager, Hudson River PCBs Superfund Site  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-7016  
(518) 402-9814  
[wfports@gw.dec.state.ny.us](mailto:wfports@gw.dec.state.ny.us)

and

Director, Bureau of Environmental Exposure Investigation  
New York State Department of Health  
547 River Street  
Troy, New York 12180  
Attention: Hudson River PCBs Superfund Site

All oral notifications to NYSDOH pursuant to this Paragraph shall be made to the NYSDOH Glens Falls District Office at (518) 793-3893.

In the event of the NYSDEC Project Manager's unavailability, Respondent's notification to NYSDEC pursuant to this Paragraph shall be sent to:

Director, Bureau of Central Remedial Action  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York  
(518) 402-9768

The reporting requirements of this Paragraph are in addition to, not in lieu of, reporting under Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004.

64. In the event of any action or occurrence during Respondent's performance of the field activities required by this Consent Order which causes or threatens to cause a release of a hazardous substance that may present an immediate threat to public health or welfare or the environment, Respondent shall immediately, upon obtaining knowledge of such action or

occurrence, notify the Team Leader, Hudson River Team, Emergency and Remedial Response Division, EPA Region 2, (212) 637-3952 (or, in the event of the unavailability of the Team Leader, one of the EPA Project Coordinators), and the State. Notifications to the State pursuant to this Paragraph shall be provided to the NYSDEC and NYSDOH personnel identified in the preceding Paragraph. In addition, in the event of any such action or occurrence that is related to activities undertaken by Respondent or its contractors to perform the requirements of this Consent Order, Respondent shall immediately take all appropriate action to prevent, abate or minimize the threat. Respondent shall take such action in accordance with applicable provisions of this Consent Order including, but not limited to, the Revised HASP and Revised CHASP.

65. Nothing in the preceding Paragraph or elsewhere in this Consent Order shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

66. a. In the event that EPA determines that any field activities performed or to be performed pursuant to this Consent Order pose a threat to human health or safety or to the environment, or that a significant change in conditions at the Site, emergency circumstances occurring at the Site, or errors or omissions of Respondent in complying with this Consent Order warrant the stoppage of any of the field activities required under this Consent Order, EPA, including but not limited to the EPA Project Coordinator(s), may direct Respondent to stop implementation of the field activities that pose the threat, or which are potentially affected by the significant changes in conditions, the emergency situation, or Respondent's errors or omissions. EPA will consult with Respondent prior to issuing such a directive, except where EPA determines that under the circumstances, there is insufficient time for such consultation before the given activities must be stopped. Subsequent to the stoppage of activities pursuant to a directive under this subparagraph, recognizing that it is the objective of EPA and Respondent to complete Work under this Consent Order promptly, EPA will notify Respondent if/when some or all of those activities should be resumed.
- b. In the case of any EPA directive under subparagraph a., requiring Respondent to stop implementation of field activities required by this Consent Order, the schedule for completion of Work under this Consent Order will be adjusted by EPA, as necessary, following consultation with Respondent.
- c. After stopping the given field activities pursuant to subparagraph a. above, Respondent may invoke the dispute resolution procedures set forth in Paragraph 87 of Section XIX if Respondent believes that the stoppage or EPA's adjustment to the schedule is inappropriate.
- d. Notwithstanding anything in this Paragraph 66, EPA reserves the right to issue a

separate administrative order to or initiate other legal action against Respondent to require the stoppage or resumption of any activities required by this Consent Order, whether or not circumstances identified in Paragraph 66.a have occurred. Respondent reserves all of its rights to contest any such administrative order or legal action.

### XIII. COMPLIANCE WITH APPLICABLE LAWS

67. Respondent shall comply with all federal and State laws and regulations that are applicable when performing the Work required by this Consent Order. No local, state, or federal permit shall be required for any portion of the Work, including studies, required hereunder which is conducted entirely on-Site, where such Work is carried out in compliance with Section 121 of CERCLA. For any Work performed pursuant to this Consent Order which is not "on-Site", as defined in Sections 300.5 and 300.400(e) of the NCP, Respondent shall submit timely and complete applications and requests for any permits necessary under applicable laws so that the Work proceeds in a timely fashion as required by this Consent Order. This Consent Order is not, nor shall it act as, a permit issued pursuant to any federal or state statute or regulation.

68. Any off-Site transfer, treatment, storage, or disposal of Waste Material from the Site by Respondent must be in compliance with the applicable requirements of the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6991, Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), the Toxic Substances Control Act, 15 U.S.C. §§ 2601 - 2629, as well as their implementing regulations, and all other applicable laws, including, but not limited to, 40 C.F.R. Parts 262 and 263 and 6 NYCRR Part 372. Any and all off-Site disposal activities conducted by Respondent under this Consent Order shall be performed in conformance with the NCP (including, but not limited to, 40 C.F.R. § 300.440) and any amendments thereto.

69. If material containing hazardous substances (as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14)) or pollutants or contaminants (as defined in Section 101(33) of CERCLA, 42 U.S.C. § 9601(33)) from the Site is to be shipped to an out-of-state waste management facility, Respondent shall provide prior written notification of such shipment to the appropriate state environmental official in the receiving facility's state (with a copy to the EPA Project Coordinators). However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards. In addition, if material containing PCBs from the Site is to be shipped to an off-site waste management facility within New York State, and if the total volume of all such shipments will be greater than 10 cubic yards, Respondent shall provide prior written notification of all such shipments to the State, with a copy to the EPA Project Coordinators. Respondent shall include in all written notifications pursuant to this Paragraph the following information: (i) the name and location of the facility to which the material is to be shipped; (ii) the type and quantity of the material to be shipped; (iii) the expected schedule for the shipment of the material; and (iv) the method of transportation. Respondent shall provide such notification to the receiving facility's state and to

EPA in writing as soon as practicable, but in any event at least ten (10) business days prior to the said shipments. Respondent shall notify the receiving facility's state of major changes in its shipment plan, such as a decision to ship the material to another facility within the same state. Nothing in this Paragraph shall abrogate, supersede or otherwise affect any other obligations of Respondent under federal or state law with respect to the off-site shipment of Waste Material or PCB-containing material.

#### XIV. PROJECT COORDINATORS, OTHER PERSONNEL

70. EPA has designated the following individuals as its Project Coordinators with respect to the Site:

Alison Hess, C.P.G.  
U. S. Environmental Protection Agency Region 2  
Emergency and Remedial Response Division  
290 Broadway, 19<sup>th</sup> Floor  
New York, New York 10007-1866  
(212) 637-3959  
[Hess.Alison@EPA.gov](mailto:Hess.Alison@EPA.gov)

Doug Tomchuk  
U. S. Environmental Protection Agency Region 2  
Emergency and Remedial Response Division  
290 Broadway, 19<sup>th</sup> Floor  
New York, New York 10007-1866  
(212) 637-3956  
[Tomchuk.Doug@EPA.gov](mailto:Tomchuk.Doug@EPA.gov)

Respondent has designated the following individual as its Project Coordinator with respect to the Site and the Work required under this Consent Order:

John Haggard  
General Electric Company  
320 Great Oaks Office Park, Suite 323  
Albany, New York 12203  
(518) 862-2739  
[John.Haggard@corporate.ge.com](mailto:John.Haggard@corporate.ge.com)

Respondent's and EPA's Project Coordinators shall coordinate communications between EPA and Respondent. EPA and Respondent may change their respective Project Coordinators. Such a change shall be accomplished by notifying the other party in writing at least ten (10) days prior to the change where possible, and concurrently with the change or as soon thereafter as possible in the event that advance notification is not possible.

71. EPA's Project Coordinators shall have the authority lawfully vested in a Remedial Project Manager and On-Scene Coordinator by the NCP. The absence of an EPA Project Coordinator from the area under study pursuant to this Consent Order shall not be cause for the stoppage or delay of Work.

72. All activities required of Respondent under the terms of this Consent Order shall be performed only by qualified persons possessing all necessary permits, licenses, and other authorizations required by applicable law.

#### XV. OVERSIGHT

73. During the implementation of the requirements of this Consent Order, Respondent and its contractors and subcontractors shall be available, with reasonable prior notice to Respondent, for such conferences and inspections with EPA as EPA may determine are necessary for EPA to adequately oversee the Work being carried out and/or to be carried out.

74. Respondent and its employees, agents, contractors, representatives and consultants shall cooperate with EPA in its efforts to oversee Respondent's implementation of this Consent Order.

#### XVI. COMMUNITY RELATIONS

75. Respondent shall cooperate with EPA in providing information regarding the Work to the public. If requested by EPA, Respondent shall participate in the preparation of such information for distribution to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.

#### XVII. SAMPLING, ACCESS AND DATA AVAILABILITY/ADMISSIBILITY

76. Access:

- a. In the event that access to any properties owned in whole or in part by entities other than Respondent is needed to carry out any of the Work (other than property(ies) to be used for the sediment processing/transfer facility(ies) discussed in Paragraph 31, above), Respondent shall use its best efforts to obtain access agreements from the present owners and/or others, as necessary, within twenty days after the date that it becomes reasonably apparent that access to such properties is needed. Such agreements shall provide access for EPA and the State and their employees and contractors, and Respondent and its authorized representatives for the period for which such access is needed to implement the Work. Such agreements for access shall specify that Respondent is not EPA's or the State's representative with respect to liability associated with Site activities.

Copies of such agreements shall be provided to EPA and the State upon request; Respondent may redact from such copies the amount of consideration, if any, to be provided by Respondent under the agreement with the property owner or other entity, except that Respondent shall provide such information to EPA at its specific request, in which case Respondent may assert a claim of business confidentiality in accordance with Paragraph 81, below, with respect to the amount paid or to be paid by Respondent to obtain access. If such access agreements are not obtained within the time referenced above, Respondent shall immediately notify EPA of the failure to obtain access and the steps Respondent took to attempt to obtain access. After an opportunity for consultation between EPA and Respondent, EPA may, in its sole discretion: (i) direct Respondent to continue to use best efforts to obtain such access and report to EPA in writing, within a stated time period, as to the success or failure of such efforts; (ii) obtain access for Respondent; or (iii) obtain access for EPA and, itself or with EPA contractors, perform those tasks or activities for which access was sought. In the event that EPA determines that Respondent has not made best efforts to obtain access agreements, Respondent shall have the right to invoke the dispute resolution procedures set forth in Section XIX below with respect to such determination. In the event that EPA performs those tasks or activities itself or with EPA contractors, Respondent shall, subject to Paragraphs 6.m, 104 and 107, hereof, reimburse the United States for all costs (including attorneys' time) incurred in performing such activities and obtaining access, and Respondent shall perform all other activities not requiring access to the given property. Respondent additionally shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables.

- b. For purposes of Paragraph 76.a., above, "best efforts" means good-faith negotiations with the property owner and/or others, as necessary, to obtain access, including offers to pay a reasonable sum of money in consideration of obtaining access. For purposes of the preceding sentence, a "reasonable sum of money" is an amount of consideration which, taking into account the transaction costs that would likely be incurred in obtaining such access by judicial or other means, is not significantly out of proportion with the fair market value of the access to be obtained.

77. If so requested by EPA, Respondent shall conduct property surveys, appraisals and/or title searches for one or more of the Final Candidate Sites and/or Recommended Site(s) that are identified by EPA for the sediment processing/transfer facilities discussed in Paragraph 31, above, and submit the survey, appraisal and/or title search report (as the case may be) to EPA. Any appraisals conducted pursuant to an EPA request under this Paragraph shall be performed by an independent third party appraiser(s). In addition, any survey, title search or appraisal conducted pursuant to an EPA request under this Paragraph shall be conducted in accordance with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition



Policies Act of 1970, as amended, 42 U.S.C. §§ 4601-4655, and the regulations promulgated thereunder, including 49 C.F.R. Part 24; the U.S. Department of Justice Standards for the Preparation of Title Evidence in Land Acquisitions by the United States (2001) or any updated version thereof; and the "Uniform Appraisal Standards for Federal Land Acquisitions," Interagency Land Acquisition Conference (2000) or any updated version thereof.

78. At all reasonable times, EPA, the State and their authorized representatives shall have the authority to enter and freely move about all those portions of the Site and any other property where field, analytical, or treatability study activities under this Consent Order are being, have been, or will be performed and to which Respondent has access, for the purpose of conducting any activity related to Work under this Consent Order, including, but not limited to, inspecting or monitoring conditions or activities at the Site; reviewing the progress of the Respondent in carrying out the terms of this Consent Order; conducting tests as EPA or its authorized representatives deem necessary; conducting investigations relating to contamination at or near the Site; obtaining samples; using a camera or sound recording device (provided that interviews of Respondent's employees or contractors, using such equipment, will not be conducted without prior notification to Respondent); and verifying any data or information submitted to EPA. The parties recognize that, for such property owned by Respondent, Respondent has adopted health and safety and security procedures for visitors, and they will work cooperatively to implement a mutually satisfactory means for EPA's and the State's employees and other representatives to comply with those procedures. All parties with access under this Paragraph to areas where field work is being performed pursuant to this Consent Order shall comply with all applicable health and safety plans.

79. All data, records, photographs, sediment samples, and other information created, maintained or received by Respondent or its agents, contractors or consultants in connection with implementation of the Work under this Consent Order, including but not limited to quality assurance memoranda, raw data, sample extracts, field notes, laboratory analytical reports, work orders, disposal records, design plans and specifications, reports intended for EPA, correspondence, or other documents or information related to the Work, shall, without delay, be made available to EPA on request (except those documents and other information which are subject to the attorney-client privilege or are attorney work product). EPA shall be permitted to copy all non-privileged documents and other items.

80. Upon request by EPA or its designated representatives, Respondent shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Consent Order, or allow EPA or its designated representatives to take such duplicate or split samples.

81. a. Respondent may assert a claim of business confidentiality under 40 C.F.R. § 2.203, covering part or all of the information submitted to EPA pursuant to the terms of this Consent Order, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner

described by 40 C.F.R. § 2.203(b) and substantiated at the time the claim is made. If EPA determines that the information is entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, the information will be given the protection specified in those regulations. If no confidentiality claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent.

- b. Subject to Paragraph 82 below, Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the contents of the document, record, or information; and (6) the privilege asserted by Respondent.

82. No claim of confidentiality (other than business confidentiality, if applicable) or privilege shall be made with respect to (i) any documents, reports or other information required to be created or generated pursuant to the requirements of this Consent Order; (ii) any data collected or generated in connection with the Work, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data; or (iii) any other factual information evidencing conditions at or around the Site.

83. Notwithstanding any other provision of this Consent Order, EPA hereby retains all of its information gathering, access and inspection authority under CERCLA, the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6991, and any other applicable statute or regulation.

84. In entering into this Consent Order, Respondent waives any objections to any data gathered, generated, or analyzed by or on behalf of Respondent in the performance of the Work under this Consent Order, to the extent that such data have been verified according to the quality assurance/quality control (“QA/QC”) procedures specified in the Sampling AOC or in the work plans that are approved and incorporated in or under this Consent Order. In addition, Respondent waives any objections to any data gathered, generated, or analyzed by or on behalf of EPA in the oversight of Respondent’s Work under this Consent Order, to the extent that EPA has followed appropriate QA/QC and chain-of-custody procedures with respect to the associated samples.

### XVIII. RECORD PRESERVATION

- 85. a. During the conduct of this Consent Order and for a minimum of ten (10) years after EPA’s written approval of Respondent’s certification of completion in accordance with Paragraph 125, below, Respondent shall preserve and retain all of the following records and documents (including records or documents in

electronic form) now in Respondent's possession or control, or which come into its possession or control, regardless of any corporate retention policy to the contrary:

- i. The final versions of correspondence with and submittals made to EPA and to the State specifically discussing or otherwise related to the performance of the Work required under this Consent Order;
  - ii. The final versions of correspondence between Respondent (including Respondent's employees, agents, accountants, contractors, or attorneys) and the laboratories retained by Respondent that relates to analyses of samples collected by Respondent pursuant to this Consent Order;
  - iii. The final versions of correspondence between Respondent (including Respondent's employees, agents, accountants, contractors, or attorneys) and the contractors retained by Respondent (other than laboratories) that documents the Work performed pursuant to this Consent Order;
  - iv. Records and documents reflecting the collection, analysis and chain-of-custody of samples and the analytical reports of chemical or physical sampling (including but not limited to raw data, chromatograms, and QA/QC documentation) relating to the performance of the Work required under this Consent Order;
  - v. Field notes and the final versions of technical reports relating specifically to Respondent's plans for or conduct of activities specifically related to the Work required under this Consent Order;
  - vi. Records and documents documenting the generation, storage, transportation and disposal or treatment of Waste Materials pursuant to this Consent Order;
  - vii. The final versions of records and documents documenting the protocols to be followed and/or in fact followed by Respondent in the performance of the Work required under this Consent Order;
  - viii. Other records and documents necessary to document the Work performed and/or the data collected under this Consent Order.
- b. For purposes of this Paragraph, where no "final" version of a document or record was created, the last draft of such document or record shall be deemed to be the "final" version.

- c. Respondent shall acquire and retain a copy of all documents of the types identified above that are in the possession of its employees, agents, accountants, contractors, or attorneys.
- d. After the 10-year period referred to in subparagraph a., Respondent shall notify EPA and the State at least ninety (90) days before any of the documents described in subparagraphs a. and b. above are scheduled to be destroyed. If Respondent so notifies EPA, and if EPA requests that the documents be saved, Respondent shall, at no cost to EPA, give the documents or copies of the documents to EPA (except for privileged documents). At any time prior to the end of this 10-year period, Respondent may elect to satisfy its obligation to preserve records and documents pursuant to this Paragraph by providing EPA with a copy of such records or documents. Upon providing a copy to EPA of records or documents, Respondent shall no longer be obligated under this Paragraph to retain those records or documents.
- e. Nothing in this Consent Order shall constitute, or be construed as, an abrogation or waiver of (i) any of Respondent's obligations to maintain records under applicable law including, but not limited to, the Federal Rules of Civil Procedure, or (ii) any privilege afforded Respondent under applicable law including, but not limited to, the Federal Rules of Civil Procedure.

#### XIX. DISPUTE RESOLUTION

86. The following dispute resolution procedures shall be used for all disputes between EPA and Respondent regarding: (a) an EPA notice of disapproval of or deficiencies in, or a directive to modify, a Dredge Area Delineation Report or a draft Intermediate Design Report (for Phase 1 or Phase 2) where Respondent contends that such EPA determination would materially expand the scope of Respondent's obligations under this Consent Order or would have a material effect on the scope of the Remedial Action; or (b) any other EPA notice of disapproval or other determination made pursuant to this Consent Order that Respondent contends would have the effect of materially expanding the scope of the Work or the areas to be dredged. Respondent shall notify EPA's Team Leader of the Hudson River Team, in writing, of its objections within fourteen (14) days of receipt of the disapproval notice or determination. Respondent's written objections shall define the dispute, state the basis of Respondent's objections, and be sent to EPA by certified mail, return receipt requested, overnight delivery or courier. EPA and Respondent will then have an additional fourteen (14) days, or such further time as may be agreed to by EPA and Respondent, to reach agreement. If an agreement is not reached within that period, Respondent may, within seven (7) days of the conclusion of that period, request a determination by either the Regional Administrator for EPA Region 2 (hereinafter, the "RA") or the Director of the Emergency and Remedial Response Division, EPA Region 2 (hereinafter, the "ERRD Director"). Such a request shall be made in writing, and if it is for a determination by the RA,

the request shall be made by a Vice President (or more senior officer) of Respondent. The RA or ERRD Director, as applicable, will issue a determination on the matter in dispute, which determination is EPA's final decision.

87. All disputes for which dispute resolution has been expressly provided in this Consent Order, other than disputes governed by Paragraph 86, shall be resolved as follows: If Respondent objects to an EPA notice of disapproval or determination made pursuant to this Consent Order, or a bill under Paragraph 104, and if the given dispute falls within a category of disputes for which dispute resolution has been expressly provided herein, Respondent shall notify EPA's Team Leader of the Hudson River Team, in writing, of its objections within fourteen (14) days of receipt of the disapproval notice or determination or, in the case of a bill under Paragraph 104, within the time period specified in Paragraph 107, below. Respondent's written objections shall define the dispute, state the basis of Respondent's objections, and be sent to EPA by certified mail, return receipt requested, overnight delivery or courier. Following Respondent's submission of such objections, EPA and Respondent will have an additional fourteen (14) days, or such further time as may be agreed to by EPA, to reach agreement. If an agreement is not reached within that period, Respondent may, within seven (7) days of the conclusion of that period, request a determination by the ERRD Director. Such a request by Respondent shall be made in writing. The ERRD Director will issue a determination on the matter in dispute, which is EPA's final decision.

88. Except as provided in Paragraph 113, below, there shall be no judicial review of a final EPA decision under Paragraphs 86 or 87, above. Respondent shall proceed in accordance with EPA's final decision regarding the matter in dispute under Paragraphs 86 or 87, regardless of whether Respondent agrees with the decision. To the extent necessary, all subsequent schedules for Work shall be adjusted to reflect and be consistent with EPA's final decision on the dispute. If Respondent does not agree to perform or does not actually perform the Work in accordance with EPA's final decision, EPA reserves the right in its sole discretion to itself conduct the Work or any portion thereof and seek reimbursement from Respondent of the costs thereof, to seek enforcement of the decision, to seek stipulated penalties, and/or to seek any other appropriate relief.

89. The invocation of dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of Respondent under this Consent Order not directly in dispute, unless EPA agrees otherwise. In addition, the invocation of dispute resolution procedures under this Section shall not stay any accrual of stipulated penalties unless EPA agrees otherwise; provided, however, that: (a) during the pendency of the dispute resolution process under this Section, EPA will not issue a demand for stipulated penalties regarding an obligation that is directly affected by the dispute; (b) after the conclusion of the dispute resolution process under this Section, EPA will not issue a demand for stipulated penalties for noncompliance during the dispute resolution process with an obligation that was directly affected by the dispute if the final resolution of the dispute was one which comports with the position Respondent was taking during the dispute resolution process; and (c) stipulated penalties regarding an obligation

that is directly affected by the dispute shall not continue to accrue during the period, if any, beginning on the 8th day after the date that the matter in dispute is fully presented to the EPA decisionmaker under Paragraphs 86 or 87, above, and ending when said decisionmaker issues her/his final decision.

XX. DELAY IN PERFORMANCE/STIPULATED PENALTIES

90. For each day that Respondent fails to comply with any of the requirements of this Consent Order, EPA may assess, and if so, Respondent shall pay, stipulated penalties in accordance with the terms below. For purposes of this Paragraph, the term "fails to comply" shall include, *inter alia*, failure by the Respondent to submit an original or revised deliverable to EPA in accordance with the terms of this Consent Order or within the time limits set forth in or established pursuant to this Consent Order, failure to revise a deliverable to fully conform with EPA's comments in accordance with the terms of this Consent Order, and submittal of an original deliverable which is of such poor quality as to not even qualify as a bona fide submission. Stipulated penalties begin to accrue on the day that performance is due or a violation occurs, and shall continue to accrue, except as provided in Paragraph 89, until the noncompliance is corrected, or until EPA notifies Respondent in writing that EPA is assuming responsibility for the portion of Work for which penalties are accruing, whichever occurs earlier. Where a revised submission by Respondent is required by EPA, stipulated penalties shall continue to accrue until a deliverable satisfactory to EPA is produced, except as provided in Paragraph 89. EPA will provide written notice of those violations for which it is assessing stipulated penalties; nevertheless, penalties shall accrue from the day a violation commences. Payment shall be due within thirty (30) days of receipt of a demand letter from EPA or within 30 days of completion of dispute resolution under Section XIX (should the dispute resolution procedures be timely invoked by Respondent with respect to an EPA assessment of stipulated penalties), whichever is later.

91. Respondent shall pay interest on any unpaid balance of stipulated penalties, which shall begin to accrue at the end of the applicable 30-day period referred to in Paragraph 90, above, at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

92. Payment of any such penalty to EPA shall be made by Electronic Funds Transfer ("EFT") in the same manner as provided by Paragraph 103 below. Respondent shall provide notice of such payment by letter referencing the name of the Site ("Hudson River PCBs Site") and the index number of this Consent Order to the EPA addressees provided in Paragraphs 60 and 103.

93. For all violations of this Consent Order, except as provided in Paragraph 94 below, stipulated penalties shall accrue as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1 <sup>st</sup> through 7 <sup>th</sup> day	\$1,000.00

8 <sup>th</sup> through 15 <sup>th</sup> day	\$2,000.00
16 <sup>th</sup> through 28 <sup>th</sup> day	\$3,000.00
29 <sup>th</sup> day and beyond	\$7,000.00

94. For the monthly progress reports required pursuant to Paragraph 59, above, stipulated penalties shall accrue in the amount of \$500 per day, per violation, for the first week of noncompliance; \$1,000 per day, per violation, for the 8<sup>th</sup> through 15<sup>th</sup> day of noncompliance; \$1,500 per day, per violation, for the 16<sup>th</sup> day through the 28<sup>th</sup> day of noncompliance; and \$4,000 per day, per violation, for the 29<sup>th</sup> day of noncompliance and beyond.

95. Respondent may dispute EPA's right to the stated amount of penalties by invoking the dispute resolution procedures under Section XIX herein. Penalties shall accrue (except as provided in Paragraph 89) but need not be paid during the dispute resolution period. If Respondent does not prevail in the dispute resolution process held under Paragraph 86 or Paragraph 87, all accrued penalties shall be due to EPA within 30 days of resolution of the dispute, subject to the provisions of Paragraph 89. If Respondent prevails upon resolution, no penalties shall be paid.

96. A failure by Respondent to submit a particular deliverable, or provide a particular notification, to EPA and the State in accordance with this Consent Order or any schedule approved pursuant to this Consent Order shall constitute one violation rather than two separate violations of this Consent Order for purposes of calculating stipulated penalties.

97. The stipulated penalties provisions of this Consent Order do not preclude EPA from pursuing any other remedies or sanctions which are available to EPA because of the Respondent's failure to comply with this Consent Order, including but not limited to taking over all or part of the Work required by this Consent Order. Payment of stipulated penalties does not alter Respondent's obligation to complete performance under this Consent Order.

#### XXI. FORCE MAJEURE

98. "Force majeure", for purposes of this Consent Order, is defined as any event arising from causes beyond the control of Respondent and of any entity controlling, controlled by, or under common control with Respondent, including its contractors and subcontractors, that delays the timely performance of any obligation under this Consent Order notwithstanding Respondent's best efforts to avoid the delay. The requirement that Respondent exercise "best efforts to avoid the delay" includes using its best efforts to anticipate any potential force majeure event and its best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any Work to be performed under this Consent Order or the financial concerns or difficulty of Respondent to perform such Work.

99. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Order, whether or not caused by a force majeure event, Respondent shall notify by telephone the EPA Project Coordinators (or, in their absence, the Team Leader of the Hudson River Team, Emergency and Remedial Response Division, EPA Region 2), and the State, within forty-eight (48) hours of when Respondent or its agents, contractors or representatives knew or should have known that the event might cause a delay. Within five (5) business days thereafter, Respondent shall provide in writing, with a copy to the State: the reasons for the delay; Respondent's rationale for interpreting the circumstances as constituting a force majeure event (should that be Respondent's claim); the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to mitigate the effect of the delay; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Such written notice shall be accompanied by all pertinent documentation relating to the alleged force majeure event, including, but not limited to, third-party correspondence. Respondent shall exercise best efforts to avoid or minimize any delay and any effects of a delay. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of force majeure.

100. If EPA agrees that the delay or anticipated delay is attributable to force majeure, the time for performance of the obligations under this Consent Order that are directly affected by the force majeure event will be extended for a period of time, determined by EPA, not to exceed the actual duration of the delay caused by the force majeure event. An extension of the time for performance of the obligation directly affected by the force majeure event shall not, of itself, extend the time for performance of any subsequent obligation.

101. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event or if Respondent objects to the length of the extension determined by EPA pursuant to Paragraph 100, above, the issue shall be subject to the dispute resolution procedures set forth in Section XIX of this Consent Order. In order to qualify for a force majeure defense, Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondent did exercise or is exercising due diligence by using its best efforts to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of Paragraph 99.

102. Should Respondent carry the burden set forth in Paragraph 101, the delay at issue shall not be deemed a violation of the affected obligation of this Consent Order.

## XXII. REIMBURSEMENT

103. a. Within fourteen (14) days of the effective date of this Consent Order, Respondent shall pay to EPA \$15,000,000 in partial reimbursement of Past Response Costs. The \$15,000,000 payment pursuant to this Paragraph shall be in addition to any obligations under the



Sampling AOC requiring Respondent to reimburse response costs. Respondent's payment pursuant to this subparagraph shall be made by Electronic Funds Transfer to EPA at Mellon Bank, Pittsburgh, Pennsylvania. To make payment via EFT, Respondent shall provide the following information to its bank:

- . Amount of payment
- . Title of Mellon Bank account to receive the payment: **EPA**
- . Account code for Mellon Bank account receiving the payment: **9108544**
- . Mellon Bank ABA Routing Number: **043000261**
- . Name of Respondent: **General Electric Company**
- . Index number of this Consent Order: **CERCLA-02-2003-2027**
- . Site/spill identifier: **02-84**

Along with this information, Respondent shall instruct its bank to remit payment in the required amount via EFT to EPA's account with Mellon Bank. To ensure that Respondent's payment is properly recorded, Respondent shall send a letter to EPA within one week of the EFT, which references the date of the EFT, the payment amount, the name of the Site, the Consent Order Index Number, and Respondent's name and address. Such letter shall be sent to the EPA addressees listed in Paragraph 60 above and to:

Chief, Financial Management Branch  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 29<sup>th</sup> Floor  
New York, NY 10007-1866.

b. Upon EPA's receipt of Respondent's payment of \$15,000,000 in accordance with subparagraph a., Respondent's potential liability to the United States for Past Response Costs shall be reduced by \$15,000,000; that is, the \$5,000,000 payment that Respondent made under Paragraph 83.a. of the Sampling AOC together with the \$15,000,000 payment to be made under Paragraph 103.a., above, will result in a total reduction of \$20,000,000 in Respondent's potential liability to the United States for Past Response Costs. Under the circumstances of this case, and in order to avoid confusion, EPA and Respondent agree that Respondent's \$20,000,000 partial payment toward Past Response Costs will not be deemed to be reimbursement for any specific item that is included within Past Response Costs. The United States reserves all of its rights to seek recovery from Respondent of all Past Response Costs not reimbursed by Respondent, and Respondent reserves any defenses it has against such a claim.

104. Respondent also hereby agrees to reimburse the United States for all RD Response Costs paid by the United States; provided, however, that Respondent is not obligated under this Consent Order to reimburse more than \$13,000,000 of RD Response Costs. Respondent's obligation to reimburse the United States for RD Response Costs pursuant to this Paragraph shall be in addition to any obligations under the Sampling AOC requiring Respondent to reimburse response costs. EPA will periodically send bills to Respondent for RD Response Costs. Each

such bill will be accompanied by a brief narrative statement of the activities performed, and a report(s) from EPA's Superfund Cost Recovery Package Imaging and On-line System (SCORPIOS) (or a similar report) providing summary cost information regarding costs that are the subject of the bill. EPA's SCORPIOS or similar reports will include the following items with respect to EPA intramural costs: (i) a listing of total labor costs by employee, including the hours charged per relevant pay period; (ii) the "action codes" or similar accounting codes that EPA used to assign labor hours to particular classes of activities; (iii) a statement of the indirect cost rate(s) applied and a listing of indirect costs; and (iv) a listing of travel costs for each traveling employee. In addition, each such bill will be accompanied by copies of the types of documents listed in items a. through d., below, to the extent that at the time of the issuance of the bill, such documents exist with respect to some of the costs that are the subject of the bill, are available to EPA or ACE, and have not previously been provided to Respondent. In addition, confidential business information contained in any of the types of documents listed in items a. through d., below, shall only be released to Respondent subject to the September 9, 2002 Agreement Regarding Confidentiality of Business Information executed between EPA and Respondent, or other appropriate confidentiality agreement.

- a. With respect to EPA contractor costs:
  - i. the technical component(s) of each work assignment, technical directive document, technical instruction document, or other task order issued by EPA to the contractor for the work for which the costs were incurred;
  - ii. any work plan or comparable document approved by EPA pertaining to the contractor work for which the costs were incurred;
  - iii. any periodic progress reports submitted by the contractor to EPA pertaining to the contractor work for which the costs were incurred; and
  - iv. if the bill to Respondent includes costs in excess of \$100,000 for a particular EPA contractor: invoices or vouchers for those contractor costs which indicate costs by cost type (*e.g.*, labor, travel, subcontractors, indirect costs, etc.) or by activity, and as to such invoices or vouchers, invoice approval forms or other documentation indicating approval by the EPA project manager or other responsible EPA employee.
- b. With respect to costs paid by EPA pursuant to an interagency agreement with ACE:
  - i. the technical component(s) of each work assignment, technical directive document, technical instruction document, or other task order issued by EPA to ACE (or by ACE to a contractor under direct contract to ACE) for the work for which the costs were incurred;

- ii. any work plan or comparable document approved by ACE pertaining to work by a contractor under direct contract to ACE for work performed pursuant to the interagency agreement and encompassed by the bill;
  - iii. any periodic progress reports submitted by ACE to EPA (or to ACE by a contractor under direct contract to ACE) pertaining to work performed pursuant to the interagency agreement and encompassed by the bill; and
  - iv. invoices or vouchers submitted to ACE by its prime contractors and which indicate costs by cost type (*e.g.*, labor, travel, subcontractors, indirect costs, etc.) or by activity, and as to such invoices or vouchers, invoice approval forms or other documentation indicating approval by the ACE project manager or other responsible ACE employee.
- c. If the costs encompassed by a bill issued by EPA to Respondent under this Paragraph include more than \$250,000 in costs paid to any subcontractor of an EPA or ACE contractor, then as to such subcontractor costs, a copy of documentation comparable to the types of documentation listed in subparagraphs a. and b., above; and
- d. With respect to costs paid to the State: progress reports and Financial Status Reports prepared by the State.

No additional documentation beyond that required above in this Paragraph shall be required to establish the amounts encompassed by a specific bill. Subject to Paragraph 107, below, Respondent shall, within sixty (60) days of receipt of each such bill and the aforementioned documentation (if such documents exist with respect to some of the costs that are the subject of the bill, are available to either EPA or ACE, and have not previously been provided to Respondent), remit payment of the billed amount via EFT to EPA at Mellon Bank, Pittsburgh, Pennsylvania, in accordance with the EFT payment procedures set forth in Paragraph 103.a. To ensure that Respondent's payment is properly recorded, Respondent shall send a letter to EPA within one week of the EFT, which references the date of the EFT, the payment amount, the name of the Site, the Consent Order Index Number, and Respondent's name and address. Such letter shall be sent to the EPA addressees listed in Paragraph 60 above and to:

Chief, Financial Management Branch  
 U.S. Environmental Protection Agency, Region 2  
 290 Broadway, 29<sup>th</sup> Floor  
 New York, NY 10007-1866

105. Nothing in this Consent Order is intended to, or does, affect the right of the State of New York to bring an action against Respondent under Section 107(a) of CERCLA for recovery of its

costs. In addition, nothing in this Consent Order is intended to, or does, waive any defense that Respondent may have to any such action or any right, benefit, or obligation that Respondent has under the September 8, 1976 Final Order and Agreement executed by NYSDEC and Respondent.

106. All payments by Respondent pursuant to Paragraphs 103 and 104 shall be deposited in the Hudson River PCBs Site Special Account within the EPA Hazardous Substance Superfund, to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

107. Within forty (40) days of receipt of a bill under Paragraph 104 (and associated supporting documentation to the extent required by Paragraph 104), Respondent may invoke the dispute resolution procedures of Section XIX of this Consent Order with respect to the bill. However, Respondent agrees to limit any disputes concerning such costs to mathematical errors and/or the inclusion of costs which are inconsistent with the NCP or are outside the scope of Paragraph 104, above, or the definition of RD Response Costs in Paragraph 6.m, above. Respondent shall identify all contested costs and the basis of its objection to each contested cost item. All undisputed costs shall be remitted by Respondent to EPA in accordance with the schedule set forth above. All disputed costs shall be paid by Respondent into an interest-bearing escrow account at the time of invocation of dispute resolution by Respondent. Respondent shall send to EPA a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Within 15 days of the resolution of the dispute under Section XIX above, Respondent shall remit to EPA, in the manner described in Paragraph 104, the amount agreed upon by the parties under Section XIX or, if no agreement is reached, then the amount directed by the ERRD Director (with accrued interest). The balance of the escrow account, if any, may be disbursed to Respondent. Respondent bears the burden of establishing an EPA mathematical error or the inclusion of costs which are inconsistent with the NCP or are outside the scope of Paragraph 104 or the definition of RD Response Costs in Paragraph 6.m, above.

108. Respondent shall pay interest on any amounts overdue under Paragraphs 103, 104 or 107. Such interest shall begin to accrue on the first day that the respective payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous Substances Superfund, in accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

### XXIII. UNITED STATES NOT LIABLE

109. The United States, by issuance of this Consent Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondent, or its directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants, in carrying out any action or activity pursuant to this Consent Order. Neither EPA nor the United States may be deemed to be a party to any contract or agreement entered into by Respondent or its directors, officers, employees, agents, successors, assigns, contractors, or

consultants in carrying out any action or activity pursuant to this Consent Order.

#### XXIV. RESERVATIONS OF RIGHTS AND REIMBURSEMENT OF OTHER COSTS

110. EPA reserves the right to bring an action against Respondent (and/or any other potentially responsible parties) under Section 107 of CERCLA for recovery of all response costs that have been or will be incurred by the United States in connection with the Site that are not reimbursed by Respondent, including, but not limited to, Past Response Costs, RD Response Costs, any costs incurred in the event that EPA performs the Work required by this Consent Order or any part thereof, and any other costs incurred by the United States for response activities in connection with or relating to the Site.

111. EPA reserves the right to bring an action against Respondent to enforce the requirements of this Consent Order, to collect stipulated penalties assessed pursuant to Section XX of this Consent Order, and to seek penalties pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, or any other applicable provision of law.

112. Except as expressly provided in this Consent Order, each party reserves all rights and defenses it may have. Nothing in this Consent Order shall be construed to limit, in any way, EPA's response or enforcement authorities including, but not limited to, the right to issue other administrative orders to Respondent regarding remedial design work (including, but not limited to, remedial design work beyond the scope of this Consent Order) or any other activity, or to seek injunctive relief, stipulated penalties, statutory penalties, and/or punitive damages, or to complete the RD (or any portion thereof) and seek reimbursement from Respondent for EPA's costs of doing so. Respondent is not released from liability, if any, for the performance of the design or implementation of EPA's February 2002 selected remedy for the Site.

113. Notwithstanding any other provision of this Consent Order, Respondent reserves any and all of its rights to contest, in any of the following proceedings, any action or decision by EPA relating to the Remedial Action:

- a. any proceeding brought against Respondent by EPA or the United States on behalf of EPA (other than a proceeding to enforce Respondent's obligations under this Consent Order or to obtain recovery of the costs for EPA's performance of any of Respondent's obligations under this Consent Order because Respondent failed to perform such obligations in accordance therewith);
- b. any proceeding brought by Respondent pursuant to Section 106(b)(2) of CERCLA, 42 U.S.C. § 9606(b)(2), for reimbursement of costs Respondent incurs in the performance of the Remedial Action, unless such rights are waived in a subsequent proceeding; and/or
- c. any proceeding in which neither the United States nor EPA is a party.

Nothing in this Consent Order shall be construed as a waiver of any such rights, nor shall anything in this Paragraph be construed to expand the rights available to Respondent under CERCLA. In addition, nothing in this Paragraph shall affect in any way Respondent's waiver of rights set forth in Paragraph 117, below.

114. If a court issues an order that invalidates any provision of this Consent Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Consent Order, Respondent shall remain bound to comply with all provisions of this Consent Order not invalidated by the court, unless otherwise ordered by the court.

115. Respondent shall bear its own costs and attorney's fees relating to this Consent Order and the Work required hereunder, subject to the provisions of Paragraphs 116 and 118, below, relating to Respondent's reservation of rights to assert claims against third parties with respect to the Site.

#### XXV. DISCLAIMER

116. Respondent's consent to this Consent Order, participation in this Consent Order, and performance of actions under this Consent Order shall not constitute or be construed as an agreement with or an admission of the Findings and Conclusions of Law contained in Section VI herein or of any fault, fact, or liability with respect to the Site. The participation of Respondent in this Consent Order shall not be admissible in evidence against Respondent in any judicial or administrative proceeding other than a proceeding by the United States, including EPA, to enforce this Consent Order or a judgment relating to it. Subject to Paragraph 117, Respondent retains its rights to assert claims against other parties with respect to the Site. However, Respondent agrees not to contest the validity or the terms of this Consent Order in any action brought by the United States, including EPA, to enforce its terms.

#### XXVI. OTHER CLAIMS

117. In entering into this Consent Order, Respondent waives any right to seek reimbursement, under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), for any of the costs incurred by Respondent in carrying out this Consent Order. Respondent also waives any right to present a claim with respect to such costs under Section 111 or 112 of CERCLA, 42 U.S.C. § 9611 or § 9612, or under any other provision of law for costs incurred in the performance of this Consent Order. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). Respondent further waives all other statutory and common law claims against EPA, including, but not limited to, any contribution claims and counterclaims related to the Work required under this Consent Order.

118. Nothing in this Consent Order shall constitute or be construed as a release from, or as

otherwise affecting, any claim, cause of action, or demand in law or equity that Respondent or EPA may have against any person not a signatory to this Consent Order for any liability that such person may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, pollutants, or contaminants found at, taken to, or taken from the Site, or otherwise relating in any way to the Site.

#### XXVII. INSURANCE AND INDEMNIFICATION

119. For the duration of this Consent Order, Respondent shall satisfy, and shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of employer's liability insurance and worker's compensation insurance for all persons performing Work on behalf of Respondent, in furtherance of this Consent Order.

120. Respondent agrees to indemnify and hold the United States Government, its agencies, departments, agents, and employees harmless from any and all claims or causes of action arising from or on account of acts or omissions of Respondent, its employees, agents, servants, receivers, successors, or assignees, or any other persons acting on behalf of Respondent, including, but not limited to, firms, corporations, parents, subsidiaries and contractors, in carrying out activities under this Consent Order.

121. Neither the United States Government nor any departments or agencies thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions by Respondent or Respondent's officers, directors, employees, agents, contractors, consultants, receivers, trustees, successors or assigns in carrying out any action or activity pursuant to this Consent Order.

#### XXVIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

122. The effective date of this Consent Order shall be the third (3<sup>rd</sup>) business day after the date that it is signed by the Regional Administrator of EPA Region 2 or her delegate, after having been executed by Respondent.

123. This Consent Order may be amended by agreement of EPA and Respondent. Amendments shall be in writing and shall be effective when signed by EPA.

124. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent will be construed as relieving Respondent of its obligations to obtain such formal approval as may be required by this Consent Order.

## XXIX. TERMINATION AND SATISFACTION

125. Upon completion of all activities required under this Consent Order, Respondent shall submit to EPA a written certification, with a supporting demonstration, that all activities required under this Consent Order - including payment of costs in accordance with Section XXII of this Consent Order, and payment of any stipulated penalties demanded by EPA - have been performed. EPA will make best efforts to respond to Respondent's submission within ninety (90) days after its receipt. If EPA disapproves the certification, it will, in writing, identify each activity that it considers to be incomplete and the reasons for considering the activity incomplete. EPA will not in such notice require Respondent to perform activities which materially expand the scope of the Work or are outside the scope of this Consent Order. In the event that EPA notifies Respondent that it considers an activity incomplete, Respondent shall complete such activity (subject to its right to invoke dispute resolution under Section XIX of this Consent Order), and upon completion thereof, shall submit another certification of completion, which shall be subject to the same procedures specified above. This Consent Order shall terminate upon EPA's written approval of Respondent's certification of completion. EPA's written approval shall not, however, terminate Respondent's obligation to comply with any of Respondent's remaining obligations under this Consent Order, including record preservation and the payment of any costs specified in Section XXII of this Consent Order which, at the time of such approval, have yet to be paid by Respondent.

126. The certification referred to in Paragraph 125, above, shall be signed by an authorized representative of Respondent. Such representative shall make the following attestation:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."



Hudson River PCBs Superfund Site  
Administrative Order on Consent Index No. CERCLA-02-2003-2027

U.S. ENVIRONMENTAL PROTECTION AGENCY


  
\_\_\_\_\_  
JANE M. KENNY  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 2

13 Aug 2003  
Date

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Consent Order. Respondent hereby consents to the issuance of this Consent Order and to its terms. The individual executing this Consent Order on behalf of the Respondent certifies under penalty of perjury under the laws of the United States that he or she is fully and legally authorized to agree to the terms and conditions of this Consent Order and to bind such Respondent thereto.

GENERAL ELECTRIC COMPANY

By:  Date: 8-11-03  
Signature

Stephen D Ramsey  
Printed Name

Vice President  
Title

# **APPENDIX 1**

## **APPENDIX 2**