

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
STATE OF NEW YORK and BASIL SEGGOS as
:
Commissioner of the New York State Department of
:
Environmental Conservation and Trustee of New York
:
State's Natural Resources,
:

Plaintiffs,
:

-against-
:

NORTHROP GRUMMAN SYSTEMS CORPORATION,
:

Defendant.
:
:
-----X

No: 2:22-cv-04091-RPK-ARL

CONSENT DECREE

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Plaintiffs State of New York and Basil Seggos, in his capacity as Commissioner of the New York State Department of Environmental Conservation and Trustee of New York State's Natural Resources (collectively, the "State"), agree as follows with defendant Northrop Grumman Systems Corporation ("Northrop Grumman"):

WHEREAS, the State has filed a complaint (the "Complaint") and commenced this action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675 ("CERCLA"), as well as state common law, seeking to recover response costs that have been and will be incurred by the State, as well as natural resource damages, arising out of the alleged releases or threatened releases of hazardous substances to groundwater under or in the vicinity of properties that are located in the Hamlet of Bethpage, Town of Oyster Bay, New York (as more specifically described below, the "Sites");

The Sites

WHEREAS, in 1983, the New York State Department of Environmental Conservation ("DEC") listed approximately 600 acres in Bethpage on the Registry of Inactive Hazardous Waste Disposal Sites in New York State (the "Registry") as the Grumman Aerospace-Bethpage Facility Site, Site No. 130003 (the "Original Site"). The Original Site is principally located in the area bounded by Stewart Avenue to the north and east, Central Avenue to the south, Route 107 to the southwest, and New South Road to the west;

WHEREAS, in March 1993, DEC divided the Original Site into two parts. DEC designated approximately 500 acres of the Original Site on the Registry as the Northrop Grumman-Bethpage Facility Site, Site No. 130003A. DEC designated the remaining approximately 100 acres

of the Original Site on the Registry as the Naval Weapons Industrial Reserve Plant Site, Site No. 130003B;

WHEREAS, in March 2000, DEC divided the Grumman Bethpage Facility Site, Site No. 130003A, into two parts. DEC designated one part, consisting of approximately 26 acres, on the Registry as the Northrop Grumman-Steel Los Plant 2 Site, Site No. 130003C. DEC continued to designate the remaining part on the Registry as the Northrop Grumman-Bethpage Facility Site, Site No. 130003A;

WHEREAS, for the purposes of this Consent Decree (the "Decree"), the term "Grumman Site" is defined to include all land and facilities that DEC designated in March 1993 as the Grumman Bethpage Facility Site, Site No. 130003A, including the land and facilities later designated as the Northrop Grumman Steel Los Plant 2 Site, Site No. 130003C, irrespective of any subsequent changes to those sites' boundaries or designations;

WHEREAS, for the purposes of this Decree, the term "Naval Weapons Site" is defined to include all land and facilities that DEC designated in March 1993 as the Naval Weapons Industrial Reserve Plant Site, Site No. 130003B, irrespective of any subsequent changes to that site's boundaries;

WHEREAS, next to the Grumman Site, between Stewart Avenue and the eastern boundary of that Site, is an area of approximately 18 acres consisting of the Bethpage Community Park, part of which had been built on former Grumman industrial settling ponds, as well as a road formerly used to access Plant 24 on the Grumman Site (collectively, the entirety of the Bethpage Community Park and former access road comprises the "Operable Unit 3 Area");

WHEREAS, for the purposes of this Decree, the Grumman Site, the Naval Weapons Site and the Operable Unit 3 Area collectively constitute the “Sites.” A map showing the location of the Sites is attached as Exhibit A;

Historical Activities at the Sites

WHEREAS, beginning in the 1930s, Northrop Grumman, through two of its predecessors, Grumman Aircraft Engineering Corporation and Grumman Corporation, along with the United States Department of the Navy (the “Navy”), used the Sites for industrial and research purposes. Among other things, Northrop Grumman was a major manufacturer of military aircraft for the United States at the Sites during World War II and later, including through the Cold War. Northrop Grumman also manufactured the Apollo Program lunar module and various satellite and other equipment for the National Aeronautics and Space Administration at the Sites. During World War II, and for decades after, chlorinated solvents were not at the time regulated as hazardous substances, hazardous wastes, or pollutants by applicable federal or state laws;

WHEREAS, all manufacturing ceased at the Sites in 1996;

WHEREAS, at some or all times between the 1930s and the present, Northrop Grumman and/or the Navy owned and/or operated (a) the Grumman Site, (b) the Operable Unit 3 Area, and (c) the Naval Weapons Site;

WHEREAS, during that period, DEC has alleged that Northrop Grumman and the Navy released hazardous substances to the soil and groundwater at parts of the Sites that Northrop Grumman and the Navy owned and/or operated;

WHEREAS, among the hazardous substances released at those parts of the Sites at those times are volatile organic compounds, including but not limited to trichloroethene (“TCE”);

WHEREAS, hazardous substances released at or from the Sites have entered the groundwater beneath the Sites because the Sites include or are near areas where precipitation enters the ground and percolates down through the soil to replenish the groundwater;

WHEREAS, the federal and New York State governments have set out standards, criteria and guidance that establish appropriate, relevant and applicable requirements for investigation and cleanup of inactive hazardous waste sites, including maximum permissible concentrations of hazardous substances in groundwater (“standards”);

WHEREAS, groundwater contaminated by alleged releases at and from the Sites has had, and continues to have, concentrations of hazardous substances, including without limitation TCE, at levels exceeding applicable standards;

WHEREAS, the contaminated groundwater underneath the Sites, though approximately 7 miles north of the Atlantic Ocean, migrates at an estimated rate of 300 feet per year from the Sites to the south-southeast toward the Atlantic Ocean;

WHEREAS, over time, the contaminated groundwater allegedly from the Sites has formed multiple underground plumes, each of which continues to move further south-southeast from the Sites. One plume area consists of groundwater that DEC has asserted: (a) is contaminated by hazardous substances, at least some of which were released at or from the Operable Unit 3 Area, and (b) has concentrations of such hazardous substances in excess of the respective standards for those hazardous substances (“Eastern Plume”). Another plume area consists of groundwater that DEC has asserted: (a) is contaminated by hazardous substances, at least some of which were released at or from the Grumman Site and/or the Naval Weapons Site, and (b) has concentrations of such hazardous substances in excess of the respective standards for those hazardous substances (“Western Plume”);

WHEREAS, the Eastern Plume and the Western Plume, together with other plumes (collectively, the “Plumes”), join and comeingle in certain locations. The Plumes, according to DEC, are currently approximately 4.3 miles long and 2.1 miles wide and extend downward to a depth of approximately 900 feet beneath the ground surface;

WHEREAS, beneath the Sites is a portion of an Environmental Protection Agency-designated sole source aquifer that is under much of Long Island and that is the primary source of drinking water for 2.6 million Long Island residents;

WHEREAS, approximately 360 public water supply wells in Nassau County withdraw drinking water from that sole source aquifer;

WHEREAS, the Plumes have entered that aquifer and, according to DEC, have affected groundwater intake at 11 public water supply wells operated by the Bethpage Water District, South Farmingdale Water District, and the Liberty Utilities (New York Water) Corp. (formerly New York American Water Company, Inc.), including five public water supply wells operated by Bethpage Water District that are directly downgradient from the Sites and within the east-central portion of the Plumes. All groundwater intake at these wells is subject to treatment before distribution to the public, and all water distributed to the public after treatment meets and has met all relevant drinking water standards; however, untreated groundwater taken from some of these wells has over time contained increasing concentrations of hazardous substances related to the Sites;

WHEREAS, the continuing expansion of the Plumes to the south-southeast, according to DEC, threatens to contaminate groundwater intake at additional public water supply wells that are currently unaffected by the Plumes;

Investigation and Remedial Work to Date

WHEREAS, DEC listed the Grumman Site and the Naval Weapons Site on the Registry based on the on-site and off-site presence of hazardous substances in the soil and groundwater;

WHEREAS, to date, DEC, Northrop Grumman and the Navy have undertaken response activities to address soil and groundwater contamination alleged to be from the release of hazardous substances at and from the Sites. Those activities have included: investigations; soil remediation; groundwater recovery, treatment and recharge; monitoring and wellhead treatment for affected or potentially affected public water supplies; and response actions for soil vapor;

WHEREAS, an operable unit at a site represents a portion of an overall program to investigate, eliminate or mitigate a release of hazardous substances that for technical or administrative reasons can be addressed separately;

WHEREAS, response activities at the Sites have been divided into multiple operable units, two of which are primarily relevant to this Decree. Operable Unit 2 consists of groundwater contamination originating in part from the alleged release of hazardous substances at and from the Grumman Site and the Naval Weapons Site. Operable Unit 3 consists of soil and groundwater contamination allegedly originating in part from release of hazardous substances at and from the Operable Unit 3 Area;

Operable Unit 2

WHEREAS, in 1997, Northrop Grumman began operating in Operable Unit 2 a groundwater extraction and treatment system serving as an on-site containment system along the southern and southwestern boundary of the Grumman Site to prevent further migration of contaminants beyond this boundary. Following withdrawal, the groundwater is treated to remove the chemicals of concern and is returned to the aquifer;

WHEREAS, in 1997, Northrop Grumman also began operating in Operable Unit 2 a soil vapor extraction system, which has prevented and treated, and continues to prevent and treat volatile organic vapors from migrating from Operable Unit 2;

WHEREAS, on March 29, 2001, DEC issued a Record of Decision (“ROD”) for the Operable Unit 2 groundwater contamination from the Grumman Site (“Operable Unit 2 ROD”). The Operable Unit 2 ROD selected a remedy for that contamination which included, among other things, continued operation of the on-site containment system along the southern and southwestern boundary of the Grumman Site;

WHEREAS, Northrop Grumman maintains that since operation of the on-site containment system began, an area of groundwater that meets applicable standards has developed downgradient of the remediation system;

WHEREAS, in January 2003, the Navy issued, and in April 2003 amended, a ROD for the Operable Unit 2 groundwater contamination originating from the Naval Weapons Site (“Navy Operable Unit 2 ROD”). The Navy Operable Unit 2 ROD selected a remedy to be implemented by the Navy for that contamination which included, among other things, a system to extract contaminants in the eastern part of the Plumes near the Seaford-Oyster Bay Expressway. The Navy has continued to operate this system since 2009;

WHEREAS, in April 2015, DEC and Northrop Grumman entered into an administrative Order on Consent for response actions to address Operable Unit 2 groundwater contamination (the “Operable Unit 2 Consent Order”). In accordance with the Operable Unit 2 ROD and the Operable Unit 2 Consent Order, Northrop Grumman has, among other things, continued to operate the on-site containment system located along the southern and southwestern boundary of the Grumman Site;

Operable Unit 3

WHEREAS, in 2009, Northrop Grumman began operating in Operable Unit 3 a second groundwater extraction and treatment system, also referred to as an on-site containment system, along the southern boundary of the Operable Unit 3 Area that operates in the same manner as the system operating in Operable Unit 2;

WHEREAS, in 2009, Northrop Grumman also began operating in Operable Unit 3 a soil vapor extraction system that operates and has operated in the same manner as the system operating in Operable Unit 2;

WHEREAS, on March 29, 2013, DEC issued a ROD for the Operable Unit 3 soil and groundwater contamination ("Operable Unit 3 ROD"). The Operable Unit 3 ROD selected a remedy for that contamination that included, among other things, continued operation of the on-site containment system along the southern boundary of the Operable Unit 3 Area;

WHEREAS, since operation of this on-site containment system began, an area of groundwater that meets applicable standards has developed downgradient of the remediation system;

WHEREAS, in May 2014, DEC and Northrop Grumman entered into an administrative Order on Consent for response actions to address Operable Unit 3 soil and groundwater contamination (the "Operable Unit 3 Consent Order"). In accordance with the Operable Unit 3 ROD and the Operable Unit 3 Consent Order, Northrop Grumman has, among other things, continued to operate the on-site containment system located along the southern boundary of the Operable Unit 3 Area;

WHEREAS, also in accordance with the Operable Unit 3 ROD and the Operable Unit 3 Consent Order, Northrop Grumman is in the process of installing a third groundwater extraction

and treatment system to address contamination in a portion of the Plumes downgradient from the Operable Unit 3 Area known as the RW-21 area (the "RW-21 System"). Northrop Grumman has recently secured local access rights so that it can begin operation of the RW-21 System in the third quarter of 2022 and to date, in connection with this system, has installed groundwater extraction wells, designed a treatment plant and the methods of managing the treated water, and designed and installed an underground piping system;

Current Conditions

WHEREAS, as a result of response actions, contaminated soil at some areas of the Sites has been addressed, and DEC has delisted portions of the Grumman Site and the Naval Weapons Site from the Registry;

WHEREAS, notwithstanding Northrop Grumman and the Navy's response actions to date, including the ongoing operation of the two on-site containment systems in Operable Units 2 and 3, DEC has asserted that the Plumes still exist and continue to expand, leading to increased concentration of hazardous substances in groundwater further downgradient from the Sites;

WHEREAS, DEC contends that the response actions to date regarding the Plumes are not fully protective of human health and the environment;

WHEREAS, in April 2019, DEC issued a feasibility study report examining possible additional actions to remediate the ongoing groundwater contamination along with a proposed Amended ROD, and in December 2019 DEC issued an Amended Record of Decision for Operable Units 2 and 3 (the "AROD"). The AROD is attached as Exhibit B;

WHEREAS, the AROD states that it builds upon the Navy Operable Unit 2 ROD, the Operable Unit 2 ROD and the Operable Unit 3 ROD, and selects a remedy, denominated as "Alternative 5B," to redress the Plumes' asserted ongoing expansion towards currently unaffected

water districts and elevated levels of contamination, including the presence of 1,4-dioxane that may originate in part from both the Grumman Site and the Naval Weapons Site and may be present in both Operable Unit 2 and Operable Unit 3 groundwater;

WHEREAS, the AROD's selected remedy includes significant additional extraction and treatment of contaminated groundwater. The remedy contemplates that extraction wells will be placed along the perimeter of the Plumes to prevent the Plumes from migrating further, while other extraction wells will be placed at points of particularly high contaminant concentrations in the interior of the Plumes to remove significant amounts of contaminants. The remedy also contemplates construction of new groundwater treatment plants as well as over 23 miles of underground piping to transport the extracted water from the wells to the treatment plants and to transport the treated water from the plants to discharge locations;

WHEREAS, since issuance of the AROD, DEC has engaged in negotiations with both the Navy and Northrop Grumman to discuss each party's willingness to implement portions of the AROD. As a result of those negotiations, the Navy will be performing work pursuant to an "Explanation of Significant Differences" which the Navy released for public comment on March 3, 2021 (the "Navy ESD") and issued as final on or about September 20, 2021, and Northrop Grumman will be performing work, as required by this Decree, which work will fully address Northrop Grumman's obligations to implement portions of the AROD. This work will include addressing site-related 1,4-dioxane impacts to downgradient public supply wells where the concentration exceeds or is expected to exceed 1.0 ug/L in the next five years;

WHEREAS, the Navy ESD provides for the addition of supplemental groundwater extraction and treatment systems to achieve remedial goals and to incorporate 1,4-dioxane as a chemical of concern into the Navy Operable Unit 2 ROD. Specifically, the Navy has committed

to performing groundwater extraction at six locations described in the AROD. The Navy will place wells to hydraulically contain contaminated groundwater from moving further south, toward the southern edge of the Plumes on the Southern State Parkway. Additionally, the Navy will begin extraction of highly contaminated groundwater in the center of the Western Plume, and the Navy has also committed to a phased approach to possible additional groundwater extraction at five locations discussed in the AROD. The phased approach will allow the Navy and DEC time to monitor the Navy's work and Northrop Grumman's work, to see if and when additional groundwater extraction wells may need to be installed to improve capture of the contaminants in the Plumes;

WHEREAS, the AROD contemplates that various public water supply wells operated by Water Districts in and adjacent to the Plumes will continue to operate (with appropriate treatment to meet drinking water standards) for the foreseeable future. The AROD also indicates that, when appropriate and feasible, certain water supply wells may be moved outside of the Plumes. The AROD contains an estimate of costs to move such water supply wells outside of the Plumes;

WHEREAS, the Navy work performed pursuant to the ESD, the Northrop Grumman work performed under this Decree, and other work to be performed by other parties and/or the State of New York will fulfill the goals set forth in the AROD, namely, to hydraulically contain the Plumes while removing the highest concentrations of contaminants in the interior of the Plumes. A figure showing the various commitments made by each party is attached as Exhibit C;

WHEREAS, the AROD identifies Northrop Grumman, the Navy, and the current owner of the adjacent RUCO Polymer Corp. (Hooker Chemical) inactive hazardous waste site, New South Road Realty, LLC, as alleged potentially responsible parties for contaminated groundwater addressed in Operable Units 2 and 3;

This Action

WHEREAS, the State alleged in its Complaint that Northrop Grumman was a former “owner” and/or “operator” of the Sites at the time of disposal of hazardous substances, and is currently an “owner” of a portion of the former Grumman Site, within the meaning of CERCLA, 42 U.S.C. § 9607(a), that Northrop Grumman is therefore liable for response costs incurred, and to be incurred, by the State in responding to releases or threatened releases of hazardous substances at and from the Sites, and that Northrop Grumman is also liable for any natural resources damages associated with such releases, along with the reasonable costs of assessment of such damages;

WHEREAS, the State alleged in its Complaint that as of the date of the Complaint, the State had incurred costs in responding to the alleged releases or threatened releases of hazardous substances at the Sites, and the State has continued to incur costs since that date and expects to incur further response costs in the future;

WHEREAS, the State alleged in its Complaint that the response actions that the State has taken and will take to respond to the releases or threatened releases of hazardous substances at the Site are not and will not be inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 (“National Contingency Plan”);

WHEREAS, the State alleged in its Complaint that Northrop Grumman is liable under state common law for the abatement of a public nuisance and for restitution of costs incurred by the State to abate such alleged public nuisance;

WHEREAS, before and during the pendency of this action, and without any admission of liability, the State and Northrop Grumman (each a “Party” and together, the “Parties”) engaged in settlement discussions to resolve Northrop Grumman’s fair and equitable share of (a) the remedial

work to be performed, (b) response costs incurred and to be incurred by the state, and (c) payment to be made in resolution of the State's natural resources damages claims;

WHEREAS, the Parties desire to enter into this Decree in order to fully and finally resolve all Claims that have been and could now or hereafter be asserted by the Parties with respect to the Matters Addressed, as defined below, without the necessity or further expense of prolonged and complex litigation, and without admission of liability;

WHEREAS, the State has determined that settlement of its Claims against Northrop Grumman in accordance with the terms set forth below is fair, equitable, reasonable, and practicable and in the best interest of the public;

WHEREAS, Northrop Grumman and the Navy have resolved potential claims against each other arising out of the Sites and the Plumes, as set forth in a proposed Consent Judgment filed with the United States District Court for the Eastern District of New York on April 12, 2022, C.A. No. 22-cv-2101, Dkt. No. 2;

WHEREAS, although not required by law, the State has provided a 75-day period for public comment of the proposed Decree, and after review of the comments submitted, has decided to proceed with the Decree and submit it to the Court for the Court's review and approval;

WHEREAS, unless otherwise expressly defined herein, terms used in this Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations; and

WHEREAS, for the purpose of this Decree, and in addition to the express definitions of terms set out elsewhere in this Decree, the following terms have the following meanings:

- a. **Authorizations:** Any and all permits, easements, approvals, access agreements and/or consents necessary for Northrop Grumman to perform its remedial obligations under this Decree.
- b. **Boring:** Vertical Profile Boring.
- c. **Claims:** All claims, debts, demands, disputes, rights, actions, causes of action, claims for relief, agreements, suits, matters, liabilities, losses, damages of any kind, interest, attorneys' fees, expert or consulting fees, indemnification, and any and all other costs, expenses or liabilities whatsoever, whether based on federal, state, local, statutory or common law, or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, known or unknown, at law or in equity, matured or unmatured, in contract, statutory, tort or otherwise, whether class, individual, derivative or otherwise in nature, including but not limited to claims for injunctive relief, costs of response or damages to natural resources pursuant to CERCLA, 42 U.S.C. § 9607(a); provided, however, that that claims subject to Paragraph 49 below are not included within the Claims as defined in this Paragraph.
- d. **Days:** Calendar days.
- e. **ESE Half-Quadrant:** The east-southeast portion of the Plumes: more specifically, the portion of the Plumes generally between Wilson Lane on the north, Stewart Avenue on the west, Boundary Avenue on the south and Bethpage State Parkway on the east. A map depicting the ESE Half-Quadrant is attached as Exhibit D.
- f. **Extraction Well:** A well that extracts contaminated groundwater; such a well may serve either as a containment well, which has a primary function to impede the

expansion of a contaminated groundwater plume, or as a mass flux well, which has a primary function to reduce the amount of contaminants in a plume.

- g. **Hazardous Substance:** This term includes, for purposes of this Decree, any substances, as of the Effective Date, encompassed by: CERCLA, 42 U.S.C. §§ 9601(14), 9602(a); 40 C.F.R. § 302.4; New York Navigation Law § 172(15); and 6 NYCRR Part 597.
- h. **Natural Resources Damages:** Natural resources damages, including, but not limited to, injury, damage, or loss to such natural resources, as defined in CERCLA, 42 U.S.C. § 9601(6) & (16), or under common law.
- i. **Parameters:** The location, depth, pumping rate and other technical characteristics of extraction or monitoring wells.
- j. **Panel:** The peer review panel with jurisdiction to resolve certain disputes between the Parties as set forth in Paragraphs 32 through 46 below.
- k. **Preliminary Investigation:** The preliminary remedial design investigation to be undertaken, *inter alia*, to provide information useful for determining the extents of the Plumes and the Parameters of remedial elements.
- l. **SE Quadrant:** Collectively, the ESE and SSE Half-Quadrants.
- m. **SSE Half-Quadrant:** The south-southeast portion of the Plumes: specifically, the portion of the Plumes between Boundary Avenue on the north, Route 107 on the west, North Atlanta Avenue to the south and North Woodward and North Broadway on the east, as depicted on Exhibit D.
- n. **VOCs:** The volatile organic compounds listed in Table 1 of Exhibit A of the AROD

- o. **Water District:** An entity formed under New York Town Law § 198(3), and the Liberty Utilities (New York Water) Corp. (formerly New York American Water Company, Inc.).

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

PURPOSE AND SCOPE OF THIS DECREE

1. The purpose of this Decree is to resolve Claims set forth in the State's Complaint and any other Claims which could have been made by the State against Northrop Grumman with regard to the Matters Addressed, defined in Paragraph 2 below, and thus to resolve all Claims arising from or related to the Sites and/or the Plumes, to release Northrop Grumman from liability for the Matters Addressed, to provide full and complete contribution protection to Northrop Grumman with regard to the Matters Addressed pursuant to CERCLA, 42 U.S.C. § 9613(f)(2), and to provide a bar from actions by certain potentially responsible parties seeking costs of response under CERCLA or other statutory authority or common law.

2. "Matters Addressed," as that term is used in this Decree, is defined to include (a) Claims that were, or could now, or hereafter may be, asserted by the State or certain potentially responsible parties as defined in CERCLA, 42 U.S.C. § 9607(a) and that are identified in Paragraph 54 below, against Northrop Grumman arising out of or in connection with the disposal, releases, and/or threat of releases of Hazardous Substances at and/or from the Sites, including without limitation remediation of the Sites and Plumes; (b) all other Claims that were, or could now, or hereafter may be, asserted by the State against Northrop Grumman under CERCLA and any other federal, state or local statute or regulation, or common law, arising out of or in connection with the Sites and/or the Plumes, including without limitation injuries to, destruction, or loss of natural resources; and (c) actions taken or payments made by Northrop Grumman and/or the Navy

with respect to the Sites and/or the Plumes and/or with respect to natural resources damages, provided, however, that, notwithstanding the foregoing, the Matters Addressed do not cover any Claims that were, or could now, or hereafter may be, asserted by (i) the State against Northrop Grumman under CERCLA or any other federal state or local statute or regulation, or common law, relating to the remediation of soil contaminated with Hazardous Substances in the Operable Unit 3 Area pursuant to the Operable Unit 3 Consent Order, or (ii) the Town of Oyster Bay against Northrop Grumman under CERCLA or any other federal, state or local statute or regulation, or common law, relating to the investigation and remediation of soil contaminated with Hazardous Substances in the Operable Unit 3 Area.

3. The Operable Unit 2 and Operable Unit 3 Consent Orders are incorporated by reference in this Decree. If there are disagreements with respect to work plans, approvals, or submissions under those Consent Orders, DEC and Northrop Grumman will seek to resolve those disagreements using the provisions contained within those Consent Orders. If those disagreements cannot be resolved informally, they will be subject to the Dispute Resolution provisions in this Decree as set forth in Paragraph 31. To the extent there is any inconsistency between this Decree and those Consent Orders, the terms and conditions of this Decree shall govern.

JURISDICTION

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1367, 2201 and 2202 and 42 U.S.C. §§ 9607 and 9613. Northrop Grumman hereby waives all objections and defenses it may have to the jurisdiction of the Court or to venue in this District. The Court shall have continuing jurisdiction to enforce the terms of this Decree and to resolve any disputes that may arise hereunder.

PARTIES BOUND

5. This Decree shall apply to, and be binding upon, and inure to the benefit of the State, including its departments, agencies, and instrumentalities, and shall apply to and be binding upon and inure to the benefit of Northrop Grumman and its respective predecessors, including without limitation predecessors Grumman Aircraft Engineering Corporation, Grumman Corporation and Grumman Aerospace Corp., subsidiaries, affiliates, parents, officers, employees, agents, successors, representatives, insurers, and assigns (collectively, the "Northrop Grumman Entities"). Each signatory represents that he or she is fully and legally authorized to enter into the terms and conditions of this Decree and to bind the party on whose behalf he or she signs.

6. Unless otherwise specified herein, this Decree does not impose any obligations on or otherwise bind any non-party. For example, if, in the future, DEC determines that continued pumping of a public water supply well or wells, which a Water District no longer needs for public supply purposes, is necessary to achieve the purposes of the AROD, neither the Water District nor Northrop Grumman (under this Decree) will be responsible for operating or funding operation of such a well.

DISCLAIMER OF ADMISSIONS AND DENIALS

7. Nothing in this Decree shall constitute, or be construed as, an admission or adjudication of any issue of law or fact.

8. Northrop Grumman is entering into this Decree as a compromise of disputed Claims and in doing so does not admit any liability, wrongdoing, or fault under any of the Claims alleged against it in the Complaint, including but not limited to alleged costs of response or damages for loss of any natural resources or services (including but not limited to groundwater).

RESPONSE ACTIONS BY NORTHROP GRUMMAN

9. Northrop Grumman shall undertake the following response actions, which DEC has determined, and this Decree affirms, is the portion of the remediation set forth in the AROD allocated to Northrop Grumman in this Decree and that Northrop Grumman shall address:

- a. Extraction Well DEC-EX 6. Northrop Grumman shall connect Extraction Well DEC-EX 6 to the Operable Unit 3 on-site containment system, and will make any necessary upgrades to that containment system to accommodate water from DEC-EX6. This well shall commence operations within approximately six months of the commencement of operations of the RW-21 Remedial System.
- b. RW-21 System. Northrop Grumman will install the RW-21 System.
- c. Preliminary Investigation of the SE Quadrant and Extraction Wells in the ESE Half-Quadrant. Northrop Grumman shall conduct the Preliminary Investigation of the SE Quadrant in two phases. Phase 1 shall be conducted in the ESE Half-Quadrant and Phase 2 shall be conducted in the SSE Half-Quadrant.
 - i. Northrop Grumman has submitted and DEC has approved a Work Plan for Phase 1, and upon obtaining access, Northrop Grumman expects to commence the drilling of Borings in the third quarter of 2022. If additional Borings are required after data is gathered during the Phase 1, they shall be part of Phase 2 as set forth in Paragraph 9.c.iv. Phase 1 is the only work that must be undertaken by Northrop Grumman prior to the Effective Date of this Decree.

- ii. Upon completion of Phase 1, Northrop Grumman shall (1) prepare a report that describes the results of Phase 1 and that recommends the scope of Phase 2, and (2) install and operate up to three Extraction Wells in the ESE Half-Quadrant. Subject to the three well limitation, DEC shall determine how many Extraction Wells Northrop Grumman shall install and operate in the ESE Half-Quadrant based on the results of Phase 1 and other relevant information. Any such determination by DEC is not subject to dispute resolution or judicial review.
- iii. Upon completion of Phase 1, Northrop Grumman shall also perform Phase 2 of the Preliminary Investigation in the general vicinity of Extraction Wells DECHC-12 and DECHC-13 as depicted on AROD Figure 13. The extent of Phase 2 of the Preliminary Investigation shall depend on the results of Phase 1.
- iv. In Phase 2, Northrop Grumman shall drill additional Borings as requested by DEC, which request shall take into account the recommendation provided by Northrop Grumman pursuant to Paragraph 9.c.ii.
- v. In Phase 1 and Phase 2, Northrop Grumman shall drill up to nine Borings in the SE Quadrant. Subject to that nine-Boring limitation, DEC shall determine how many Borings Northrop Grumman shall drill and sample in the SE Quadrant.

- d. Extraction Wells in the SSE Half-Quadrant. To address the alleged loss to the State of natural resources, Northrop Grumman has agreed to install and operate up to two groundwater Extraction Wells in the SSE Half-Quadrant. Subject to the two well limitation, DEC shall determine how many Extraction Wells Northrop Grumman shall install and operate in the SSE Half-Quadrant based on the results of Phase 1, Phase 2, and other relevant information. Any such determination by DEC is not subject to dispute resolution or judicial review.
- e. Northrop Grumman can choose, but shall not be required under this Decree, to install or operate more than five groundwater Extraction Wells in the Plumes.

10. Within a reasonable time, Northrop shall submit to DEC Work Plans for the response actions described in Paragraph 9 above, except for any actions for which Work Plans have already been submitted. Such work plans shall include provisions for appropriate treatment of extracted water for all Hazardous Substances, including VOCs that exceed any applicable standards.

11. In undertaking the actions required pursuant to Paragraph 9 above, Northrop Grumman shall use reasonable efforts to coordinate and cooperate with the Navy as the Navy performs separate remedial efforts at and in connection with the Sites and Plumes (outside of the actions to be undertaken by Northrop Grumman pursuant to this Decree). Such Navy efforts include work performed pursuant to various RODs issued by the Navy. In particular, Northrop Grumman shall use reasonable efforts to coordinate Phase 2 of the Preliminary Investigation and installation of Extraction Wells in the SSE Half-Quadrant with the Navy and the Navy's investigative and/or remedial activities along the Southern State Parkway in order to identify Extraction Well Parameters that optimize the Navy's capture of Hazardous Substances within the

Western Plume. The Navy's lack of coordination or cooperation with DEC and/or Northrop Grumman, or the Navy's failure to act with reasonable expedition, shall not be grounds for the State to assert non-compliance by Northrop Grumman with this Decree, terminate this Decree or take other action against or affecting Northrop Grumman; provided, however, that Northrop Grumman provides reasonably prompt notice to DEC of the Navy's lack of coordination or cooperation or failure to act with reasonable expedition (the "Navy's Inaction"), and that such notice describe (a) the Navy's Inaction; (b) the obligation under this Decree that Northrop Grumman was unable to perform or complete as a result of the Navy's Inaction, (c) how the Navy's Inaction prevented Northrop Grumman from performing or completing that obligation, and (d) any mitigation efforts Northrop Grumman made to perform that obligation because of the Navy's Inaction.

**RESPONSE COSTS AND NATURAL RESOURCES DAMAGES
ASSESSMENT COSTS**

12. Northrop Grumman shall pay the State \$4,000,000.00, of which \$3,600,000.00 shall be for the costs of the State's investigation, including the installation of wells, engineering analyses by HDR (a DEC consultant) and DEC necessary for preparation of the 2019 feasibility study report, preparation of the AROD, and related activities, and of which \$400,000.00 shall be for the costs of the assessment of natural resources damages. Costs referenced in this Paragraph 12 are through December 31, 2020.

13. Northrop Grumman shall pay these amounts in two equal installments: \$2,000,000.00, of which \$1,600,000.00 shall be allocated to the state hazardous waste remedial fund and \$400,000.00 shall be allocated to the state Natural Resource Damages Fund, to be paid within 60 days of the Effective Date of this Decree; and \$2,000,000.00, which shall be allocated

to the state hazardous waste remedial fund, to be paid within one year after the first payment to such fund becomes due.

14. Northrop Grumman shall also pay costs that the State incurs after January 1, 2021 for its oversight of Northrop Grumman's implementation of the Decree, provided, however, that Northrop Grumman shall not be required to pay any further costs associated with oversight or other DEC or State activities related solely to either the natural resources damages paid under this Decree, including without limitation the assessment of those damages or any further assessment of such damages. For each calendar year in which the Decree is in effect, the State shall prepare a statement setting out the oversight costs that the State has incurred or paid to a contractor during that calendar year (other than costs related to the DEC-appointed member of the Panel, which are addressed separately in Paragraph 36 below). The State shall send that statement to Northrop Grumman as provided in Paragraph 60 below no later than March 31 of the following year, and Northrop Grumman shall pay the total amount set out in the statement (up to the cap amount set forth herein) no later than May 31 of that same year. The State's failure to send the statement by March 31 shall not constitute a waiver of, or otherwise alter or terminate, Northrop Grumman's payment obligations under this Paragraph, provided, that notwithstanding the foregoing, for work commencing in 2022 and later, the State's failure to send the statement by May 31 shall constitute a waiver of the costs for the relevant time period. If the State sends the statement after March 31 but before May 31, Northrop Grumman shall pay the total amount set out in the statement no later than 60 days after the date the State sends the statement. DEC costs incurred for its oversight of Northrop Grumman's implementation of this Decree shall not exceed \$100,000.00 per annum, increased annually by the consumer price index issued by the U.S. Department of Labor.

15. Within 7 days of the Effective Date of this Decree, the State shall provide Northrop Grumman with wiring instructions for all payments to be made by Northrop Grumman pursuant to this Decree. Northrop Grumman shall make those payments in accordance with the wiring instructions provided, as the State may revise them from time to time. At the time any payment is remitted, Northrop Grumman shall provide written or electronic notice of the remittance in accordance with Paragraph 60 below.

16. Failure to make any payments required under this Decree in the manner and time period specified in this Decree shall constitute a default under this Decree by Northrop Grumman. In the event of such default, the State shall send written notice of the default to Northrop Grumman. Such notice shall be sent via certified mail to Northrop Grumman at the addresses noted in Paragraph 60 below. Northrop Grumman shall have 30 days from the receipt of such notice to cure the default by payment of the amount originally due. In addition, in the event of such default, Northrop Grumman shall be liable to the State for payment of interest on the amount that is owed but not paid in the manner and time period specified in this Decree for the payment not made. The interest Northrop Grumman owes shall be calculated at the rates and in the manner provided in 28 U.S.C. § 1961; provided, however, that the amount of interest shall be calculated starting from the date of default.

NATURAL RESOURCES DAMAGES ACTIONS

17. Pursuant to the settlement in principle between the Parties that resulted in this Decree, Northrop Grumman has agreed with Bethpage Water District to pay \$29,000,000 to the Water District. That agreement is set forth in a Consent Judgment in the United States District Court for the Eastern District of New York entered on May 24, 2022, C.A. No. 22-cv-2050. As a further condition to Northrop Grumman making that payment to Bethpage Water District, the

Bethpage Water District has entered into the Memorandum of Agreement with DEC attached as Exhibit E. That Memorandum of Agreement provides, *inter alia*, that if Bethpage Water District determines to cease use of Plant 5 and/or Plant 6 wells, the Water District must give advance notice to DEC of such intent, and DEC will determine whether it will continue or cause to be continued the operation of one or more of such wells based on the benefit of the continuation of operation to the achievement of the remedial goals of the AROD. Should such notice be given, DEC will provide Northrop Grumman with prompt notice of such intent and Northrop Grumman shall have the right to submit comments to DEC with respect to whether DEC should continue to operate such well(s). Northrop Grumman shall provide to DEC proof of payment of all payments it makes directly to the Bethpage Water District under this Paragraph, within 30 days of making such payment.

18. Pursuant to the Consent Judgment referenced in Paragraph 17 above, Northrop Grumman shall take the following actions at Bethpage Water District's Plant 4:

- a. Use Plant 4 for remedial treatment of extracted groundwater, which will lessen the need to construct new facilities, such as piping, buildings and pumping substations and the attendant disruption to the community that would otherwise occur from such construction, and will assist in restoration of claimed injured natural resources;
- b. Convert Plant 4's Extraction Wells to injection wells that will inject treated groundwater water deep into the aquifer north of water supply wells and thereby would be expected to afford similar protection as the recharge basin in Bethpage State Park contemplated in the AROD and would be expected to limit the

potential movement of the Western Plume further to the east, which would therefore assist in restoring natural resources;

- c. Construct a recharge basin, which will avoid the destruction of up to 18 acres of ecologically valuable mature forest in Bethpage State Park for a recharge basin and recharge the aquifer faster than a more northerly recharge basin in Bethpage State Park.
- d. Within a reasonable time, submit to DEC a Work Plan for the actions described in Paragraphs 18.a-c.

19. In addition to the payments made to Bethpage Water District pursuant to Paragraph 17 above, Northrop Grumman will make the following payments to the State for alleged natural resources damages:

- a. \$34,500,000.00 pursuant to the schedule set forth in Paragraph 19.d below, which shall be allocated to the State's Natural Resource Damages Fund and used by DEC, within its discretion, to implement DEC-selected groundwater protection and restoration projects, including, potentially, projects to benefit those Water Districts affected or potentially affected by the Sites and/or the Plumes, and actions to confirm the absence/presence of toluene near Extraction Well DECHC-05 (which Northrop Grumman alleges does not exist and, if it does exist, that Northrop Grumman is not the source), provided that at least \$12,500,000.00 of this amount shall be used by DEC for the installation of: (1) up to two Extraction Wells upgradient of and to protect South Farmingdale Water District Plant 6, in the vicinity of Extraction Well DECHC-04, (2) one or more water supply wells outside of the Plumes to replace South Farmingdale

Water District Plant 6 for the benefit of that Water District, or (3) the addition of treatment for 1,4-dioxane at South Farmingdale Water District Plant 6.

- b. In the event Northrop Grumman has entered into a final agreement with South Farmingdale Water District within one year of the Effective Date of this Decree, \$12,500,000.00 of this amount may be paid directly by Northrop Grumman to the South Farmingdale Water District for one or more of the purposes set forth in Paragraph 19.a above.
- c. As a pre-condition to Northrop Grumman paying South Farmingdale Water District directly under Paragraph 19.b, the Water District will enter into a Memorandum of Agreement with DEC (similar to Exhibit B hereto), committing the Water District to use the payment as set forth in Paragraph 19.a. The Memorandum of Agreement shall provide, *inter alia*, that if South Farmingdale Water District determines to cease use of one or both wells that comprise Plant 6, the Water District must give advance notice to DEC of such intent and DEC will determine whether it will continue or caused to be continued the operation of such Plant (or an individual well) based on the benefit of the continuation of operation to the achievement of the remedial goals of the AROD. Should such notice be given, DEC will provide Northrop Grumman with prompt notice of such intent and Northrop Grumman shall have the right to submit comments to DEC with respect to whether DEC should continue to operate such well(s).
- d. In addition to the payments to Bethpage Water District pursuant to Paragraph 17 above, Northrop Grumman shall pay the \$34,500,000.00 in installments as

set forth below, which amounts include any payments made directly to the South Farmingdale Water District: \$2,000,000.00 to be paid to the State within 90 days of the Effective Date of this Decree; \$8,000,000.00 to be paid within one year after the first payment becomes due; \$13,000,000.00 to be paid within two years after the first payment becomes due; and \$11,500,000.00 to be paid within three years after the first payment becomes due. Northrop Grumman shall provide to DEC proof of payment of any payments it makes directly to the South Farmingdale Water District under this Paragraph 19, within 30 days of making such payment.

- e. Payments made to the State shall be deposited in a dedicated sub-fund in the State's Natural Resources Damages Fund.

**DEVELOPMENT, PERFORMANCE AND
REPORTING OF WORK PLANS**

20. Citizen Participation Plan.

- a. Within 20 days after the Effective Date of this Decree, Northrop Grumman shall submit to DEC for review and approval a written citizen participation plan for implementation of this Decree prepared in accordance with the requirements of 6 NYCRR § 375-1.10 (the "Citizen Participation Plan").
- b. The Citizen Participation Plan shall include provisions for formation of a Community Participation Work Group ("CPWG") for the remedial design of the remedy to be implemented by Northrop Grumman under this Decree and for the Bethpage Community Park soils under the Operable Unit 3 Consent Order. The purpose of the CPWG shall be to assure that, in addition to other elements of the Citizen Participation Plan, Northrop Grumman and DEC keep

the public informed about the progress of such remedial design and consider public input thereon. The CPWG will be managed by a Third Party Facilitator with experience in convening and establishing a CPWG, developing procedures and facilitating public meetings. The Third Party Facilitator shall establish by-laws pursuant to which the CPWG operates, and shall establish meeting schedules and locations, chair such meetings, provide meeting agendas, and shall work with local officials and agencies to solicit interest and membership in the CPWG. The Facilitator shall be proposed and approved by DEC, but such selection shall be subject to Northrop Grumman's approval, which shall not be unreasonably withheld. The CPWG meetings convened by the Facilitator shall be semi-annual. Northrop Grumman agrees to reimburse the DEC for up to one hundred thousand dollars (\$100,000.00) in costs associated with contracting with the Facilitator and the establishment and operation of the CPWG, and Northrop Grumman will be invoiced using the same procedures as set forth in Paragraph 14 above.

- c. Upon approval by DEC, Northrop Grumman shall implement the Citizen Participation Plan. This Plan shall, upon DEC approval, supersede any prior Citizen Participation Plan prepared under the Operable Unit 2 and/or Operable Unit 3 Consent Orders.

21. All activities conducted pursuant to this Decree shall be conducted pursuant to one or more DEC-approved work plans ("Work Plan" or "Work Plans"); provided, however, that any Work Plan subject to the jurisdiction, and adopted by a determination of, the Panel shall be considered to be a DEC-approved Work Plan. All activities performed pursuant to this Decree

shall not be inconsistent with the National Contingency Plan, as required under CERCLA, 42 U.S.C. §§ 9607(a)(4)(A). The Work Plan(s) under this Decree shall be developed and implemented in accordance with 6 NYCRR § 375-1.6(a) and Subpart 375-6 and constitute enforceable work plans under 6 NYCRR § 375-1.6(d)(2)(i).

22. Northrop Grumman shall submit all Work Plans required or contemplated under this Decree to DEC for DEC review and approval within a reasonable time, with reasonableness to be determined by factors including site conditions and the maintenance of orderly and timely progress of the various elements of work to be done by Northrop Grumman.

23. Upon approval of a Work Plan by DEC (or the determination of the Panel, as applicable), Northrop Grumman shall implement such Work Plan in accordance with the schedule contained therein, subject, *inter alia*, to modifications that might be needed for Northrop Grumman to obtain Authorizations, with such schedule modifications subject to DEC approval pursuant to Paragraph 26 below. Northrop Grumman shall construct the remedial elements set forth in Paragraph 9 within five (5) years from the Effective Date of this Decree; provided, however, that this five (5) year deadline shall be extended to the extent of time lost because (i) Northrop Grumman was unable to obtain Authorizations and/or needed to obtain Authorizations from DEC pursuant to Paragraph 29 below and/or (ii) one or more Force Majeure Events pursuant to Paragraph 58 below. Northrop Grumman may also, for reasonable cause, request an extension of this period, which request shall not be unreasonably denied by DEC.

24. Ninety days after the Effective Date of this Decree, and every 90 days thereafter so long as Northrop Grumman has not received all Authorizations necessary to perform its obligations under this Decree, Northrop Grumman will provide DEC with a status report on its efforts to obtain those Authorizations.

25. Work Plans contemplated under this Decree include:
- a. Preliminary Investigation Work Plan: a Work Plan that provides for the investigation of the nature and extent of contaminated groundwater in support of the development of the remedial design, if necessary, for addressing such groundwater;
 - b. RD/RA Work Plan: a Work Plan that addresses remedial design and remedial action, that is, a Work Plan that provides for the development and implementation of final plans and specifications for implementing elements of the AROD in accordance with this Decree;
 - c. IRM Work Plan: a Work Plan that provides for an interim remedial measure; and
 - d. Site Management Plan: a Work Plan that provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy.
26. Submission/Implementation of Work Plans.
- a. Any proposed Work Plan that is submitted for DEC's review and approval shall include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow DEC to evaluate that Work Plan.
 - b. DEC shall notify Northrop Grumman in writing if DEC determines that any element of a DEC-approved Work Plan needs to be modified in order to achieve the objectives of such Work Plan or to carry out the terms and conditions of this Decree. Upon receipt of such notification, Northrop Grumman shall, subject to

dispute resolution pursuant to Paragraph 31 or Paragraphs 32 through 46 below, as applicable, modify the Work Plan.

- c. DEC may request, subject to dispute resolution pursuant to Paragraph 31 or Paragraphs 32 through 46 below, as applicable, that Northrop Grumman submit additional or supplemental Work Plans within 60 days after DEC's written request.
- d. A Site Management Plan shall be submitted by Northrop Grumman in accordance with the schedule set forth in an IRM Work Plan or RD/RA Work Plan.
- e. During all field activities conducted under a DEC-approved Work Plan, Northrop Grumman shall have on-site a representative who is qualified to supervise the activities undertaken in accordance with the provisions of 6 NYCRR § 375-1.6(a)(3).
- f. A Professional Engineer must stamp and sign all RD/RA Work Plans submitted by Northrop Grumman.

27. Submission of Final Reports and Periodic Reports.

- a. In accordance with the schedule contained in a Work Plan subject to modifications approved by DEC, Northrop Grumman shall submit a final report as provided at 6 NYCRR § 375-1.6(b) and a final engineering report as provided at 6 NYCRR § 375-1.6(c).
- b. Any final report or final engineering report that includes construction activities shall include "as built" drawings showing any changes made to the remedial design or an interim remedial measure.

- c. In the event that the final engineering report requires site management, Northrop Grumman shall submit an initial periodic report in accordance with the schedule in the Site Management Plan, subject to modifications approved by DEC, and thereafter submit further periodic reports in accordance with a schedule determined by DEC. Such periodic reports shall be signed by a Professional Engineer or by such other qualified environmental professional as DEC may find acceptable and shall contain a certification as provided at 6 NYCRR § 375-1.8(h)(3). Northrop Grumman may petition DEC for a determination that Extraction Wells, monitoring wells, and/or institutional and/or engineering controls may be terminated. Such petition must be supported by a statement by a Professional Engineer that such controls are no longer necessary for the protection of public health and the environment. DEC shall not unreasonably withhold its approval of such petition.
- d. Within 90 days of DEC's approval of a Final Report, or a longer time period approved by DEC, Northrop Grumman shall submit additional Work Plans if required by DEC in its approval letter for such Final Report.

28. Review of Submittals.

- a. DEC shall make a good faith effort to review and respond in writing to each submittal Northrop Grumman makes pursuant to this Decree within 60 days. DEC's response shall include, in accordance with 6 NYCRR § 375-1.6(d), an approval, modification request, or disapproval of the submittal, in whole or in part.

- b. Upon DEC's written approval of a Work Plan (or a determination of the Panel, as applicable), such DEC-approved Work Plan shall be deemed to be incorporated into and made a part of this Decree and shall be implemented in accordance with the schedule contained therein, subject to modifications approved by DEC.
- c. If DEC modifies or requests modifications to a submittal, it shall specify the reasons for such modification(s). Within 15 days after the date of DEC's written notice that a submittal should be or has been modified, Northrop Grumman shall notify DEC as to whether Northrop Grumman elects to modify, or accept DEC's modifications to, the submittal. If it elects to modify, Northrop Grumman shall make a revised submittal that incorporates all of DEC's modifications to the first submittal in accordance with the time period set forth in 6 NYCRR § 375-1.6(d)(3), subject to any modifications to the time period approved by DEC. In the event that DEC disapproves Northrop Grumman's revised submittal, DEC shall set forth its reasons for such disapproval in writing, and Northrop Grumman may invoke dispute resolution pursuant to Paragraph 31 or Paragraphs 32 through 46 below, as applicable.
- d. If DEC disapproves a Northrop Grumman submittal, DEC shall specify the reasons for its disapproval. Within 15 days after the date of DEC's written notice that Northrop Grumman's submittal has been disapproved, Northrop Grumman shall notify DEC of its election to modify the submittal or to invoke dispute resolution pursuant to Paragraph 31 or Paragraphs 32 through 46 below, as applicable. If Northrop Grumman elects to modify the submittal, Northrop

Grumman shall make a revised submittal that addresses all of DEC's stated reasons for disapproving the first submittal in accordance with the time period set forth in 6 NYCRR § 375-1.6(d)(4), subject to any modifications to the time period approved by DEC. In the event that DEC disapproves Northrop Grumman's revised submittal, DEC shall set forth its reasons for such disapproval in writing, and Northrop Grumman may invoke dispute resolution pursuant to Paragraph 31 or Paragraphs 32 through 46 below, as applicable.

- e. To the extent that there is a dispute with respect to one of more Parameters in a Northrop Grumman-proposed work plan or submittal that is subject to Panel jurisdiction and brought to the Panel, only the dispute regarding such Parameter(s) is subject to review by the Panel; a dispute over other aspects of a proposed Work Plan or submittal are subject to general dispute resolution pursuant to Paragraph 31 below.
- f. Within 30 days after either DEC's approval of a final report or the determination of the Panel resolving a dispute over an issue in what is considered to be a DEC-approved report, Northrop Grumman shall submit such final report, as well as all data gathered and drawings and submittals made pursuant to such report, in an electronic format acceptable to DEC. If any document cannot be converted into electronic format, Northrop Grumman shall submit such document in an alternative format acceptable to DEC.

29. Northrop Grumman shall make reasonable efforts to obtain all Authorizations necessary to perform its obligations under this Decree, including Authorizations necessary under law to obtain access from the Town of Oyster Bay, the County of Nassau, other municipal or local

governmental entity(ies), or other third party(ies) for the installation of any components of the remedy, including but not limited to Borings and any monitoring wells as part of the Preliminary Investigation, any Extraction Wells, any piping and any treatment facility(ies). If Northrop Grumman cannot obtain any such Authorization(s) after making reasonable efforts, it shall provide notification to DEC, together with supporting material demonstrating its efforts to obtain the Authorization(s). Unless DEC reasonably determines that Northrop Grumman has not made reasonable efforts, DEC shall use its authority under New York Environmental Conservation Law § 27-1313(8) to attempt to obtain access for Northrop Grumman to proceed with the subject remedial activity(ies). This provision does not affect DEC's authority under 6 NYCRR § 375-1.12(b), (c), and (d) to exempt Northrop Grumman from the requirement to obtain any State or local permit or other authorization for any activity conducted pursuant to this Decree.

30. Requests by Northrop Grumman for a change to a deadline or time period set forth in this Decree or in an approved Work Plan shall be made in writing to DEC's project attorney and project manager; DEC shall not unreasonably deny such requests and shall send a written response to such requests to Northrop Grumman promptly after any approval or denial of such requests. Changes to deadlines or time periods set forth in this Decree or to approved Work Plans shall not require an order of this Court.

GENERAL DISPUTE RESOLUTION

31. Subject to the limitations on dispute resolution and judicial review in Paragraphs 3 and 9.c.ii and 9.d above, and Paragraphs 35 and 59 below, in the event disputes arise with respect to response actions required by this Decree other than the disputes subject to the jurisdiction of the Panel as set forth in Paragraph 46 below, Northrop Grumman may initiate dispute resolution. Initiation and the conduct of such dispute resolution shall be in accordance with the provisions of

6 NYCRR § 375-1.5(b)(2), provided, however, that Northrop Grumman shall have 30 days to initiate a dispute resolution, and judicial review of decisions under such dispute resolution shall be in this Court.

**DISPUTE RESOLUTION THROUGH EXPERT
PEER REVIEW PANEL PROCESS**

32. The Panel shall be established to resolve certain disputes brought to it by one or both of the Parties and make binding decisions relating to Northrop Grumman's obligations under this Decree. The disputes subject to the Panel's jurisdiction are specified in Paragraph 46 below.

33. The Panel shall be maintained so long as disputes regarding the issues subject to Panel jurisdiction identified in Paragraph 46 below may arise, and may be reactivated to resolve future disputes, if any, upon agreement of the Parties (e.g., disputes relating to operations). In such event, the Parties shall develop standards for resolving such disputes.

34. Establishment of the Panel.

- a. There shall be three experts on the Panel: one selected by DEC, one selected by Northrop Grumman, and a third selected by the first two experts.
- b. The members of the Panel must have expertise in the following subject areas: coastal plain hydrogeology; groundwater flow and transport modeling; 3-dimensional data visualization; and pump and treat remediation of VOCs. If a putative Panel member has expertise in at least two of these disciplines and familiarity with the other disciplines, and is a member of a firm with expertise in the remaining areas, that member would qualify to serve on the Panel.
- c. If the experts selected by DEC and Northrop Grumman cannot agree on the third expert for the Panel, DEC and Northrop Grumman shall each provide the names of two independent experts who meet the foregoing qualifications to a

mediator with expertise in environmental law from the New York City office of the alternate dispute resolution organization JAMS, who shall select the third member of the Panel.

- d. The Panel shall be established within 3 months of the first dispute initiated that is within the jurisdiction of the Panel as set forth in this Decree.

35. The decisions of a Panel constituted in accordance with Paragraph 34 above that are either within the scope of Panel authority as set out in Paragraph 46 below or otherwise subject to the Panel's jurisdiction by agreement of the Parties shall be final and binding on the Parties, and not subject to appeal or judicial review.

36. Northrop Grumman shall compensate all three experts on the Panel, at the customary rates for such member and/or the member's firm, for the work on the Panel actually performed up to the amount of \$150,000,00 in aggregate; once that amount is incurred, DEC shall compensate the expert it chose while Northrop Grumman shall continue to compensate the expert it chose and the third selected expert; DEC's compensation of its expert shall not be denominated as oversight or similar costs and shall not be charged to Northrop Grumman.

37. Dispute resolution procedure. A dispute subject to Panel resolution shall be brought before the Panel as follows:

- a. A Party (the "Notifying Party") can provide notice to the other Party (the "Receiving Party") and the Panel that a dispute within Panel jurisdiction exists ("Initial Notice") and thereby submit that dispute to the Panel; the Initial Notice shall state the basis for Panel jurisdiction. In the event that the Panel is not yet established pursuant to Paragraph 34 above, the Notifying Party shall request

in its Initial Notice that the Panel be established and provide the Initial Notice to the Panel as soon as it is established.

- b. If the Receiving Party disagrees that a dispute exists within Panel jurisdiction, it shall submit such objection to the Notifying Party and the Panel within 7 days of receipt of the Initial Notice by the Panel.
- c. Within 7 days of receiving an objection to Panel jurisdiction over a dispute pursuant to Paragraph 37.b, the Panel shall set out in writing its determination whether it has jurisdiction over the dispute. The Panel has jurisdiction over a dispute if a timely objection to the Panel's jurisdiction is not submitted under Paragraph 37.b, subject to any extensions to the 7 day deadline set forth in that Paragraph agreed to by the Parties.

38. Any Party may submit a position paper regarding the issue(s) in dispute to the Panel and the other Party within 30 days of submission of the dispute.

39. If data or information beyond the administrative record is used in a submission, a copy of the cited material ("Cited Material") must be provided to the other party. The Panel may allow the author of the Cited Material to be questioned if reasonably available and amenable to such questioning.

40. Either Party may submit a reply to the other Party's position paper within 15 days of the later of: the filing of such a position paper, the provision of Cited Material, or the provision of answers to questions on Cited Material.

41. The Panel has the right to conduct the dispute resolution proceeding, including the authority to: require the Parties to provide additional information; allow questions to be propounded by a Party; meet with the Parties separately or together; and/or take other actions that

would assist the Panel in making a decision or avoid the need to issue a Panel decision. The Panel shall allow oral argument upon request of either Party.

42. Unless the Party raising a dispute before the Panel withdraws the dispute from the Panel or the Parties agree on a resolution of the dispute without a Panel determination, the Panel shall, by a majority vote, issue a binding written Panel decision regarding the issue(s) in dispute, with the reasons for the determination, no later than 20 days after the later of: final submissions by all Parties, oral argument, or the completion of communications between one or both Parties and the Panel. A Panel member that disagrees with the majority decision may issue a dissent at the time of the issuance of the Panel decision. A Party may issue notice demanding a determination after 20 days following a submission or communication if the Panel has not, within that time, notified the Parties that further submissions or communications are needed to reach a determination. Unless the Panel requires additional information, of which it shall notify the Parties within 5 days of such demand for determination, the Panel shall issue its determination within 20 days after the Party sends the notice demanding determination.

43. In the event the Panel rules against DEC on an issue, such ruling does not preclude DEC, in its sole discretion, from taking additional response actions; provided, however, that, subject to Paragraph 49 below, DEC may not seek to recover costs of any such additional remedial actions from Northrop Grumman.

44. Notices and Submissions in Panel Proceedings.

- a. All notices and submissions, unless otherwise directed by the Panel, shall be by electronic mail, and the recipient(s) shall confirm receipt.

- b. Unless a Party obtains an extension of time from the Panel or by agreement of all Parties, the failure to meet a deadline results in the waiver of the right to make a submission.

45. General dispute standard for Panel decisions. The Panel shall use current data and apply state-of-the art approaches and methodologies in interpolating data, and shall employ hydrogeology, groundwater flow directions, modeling (including solute transport modeling) and other relevant methodologies to reach a scientifically sound resolution. It shall consider all modeling provided to it that has been performed by DEC and its consultants, the United States Geologic Survey, Northrop Grumman and its consultants, and the Navy and its consultants.

46. Dispute subjects subject to Panel decisions and additional standards for Panel decisions. The following issues shall be within the jurisdiction of the Panel:

- a. The extent and distribution of the Plumes. The extent and distribution of the substances listed in Table 1 of Exhibit A of the AROD in the Plumes at or above standards must be determined, at a minimum, on data to be collected from the Preliminary Investigation, data from existing monitoring wells sampled within the last 5 years, other data collected within the last 10 years (including Boring data used for screening purposes), and/or groundwater flow information. Accepted standards of data interpolation between two or more points of empirical data shall be applied.
- b. The specifications of Extraction Wells, including but not limited to locations, depths, and pumping rates. Extraction Wells functioning as containment wells shall be installed at the aquifer location and depth where data analysis indicates

that VOCs exceeding standards transition to VOCs at or beneath standards, unless wells within the Plumes would achieve such containment.

FAIR AND REASONABLE SETTLEMENT

47. The payments, response actions, and natural resources damages terms under this Decree represent a fair, equitable, and reasonable contribution by Northrop Grumman toward the total response and related costs that have been or may in the future be incurred with respect to the Site and the Plumes, including with respect to releases or threatened releases of Hazardous Substances at and from the Sites and/or the Plumes and to any natural resources damages resulting from such releases. The Parties agree, and this Court by entering this Decree finds, that this Decree has been negotiated in good faith, that settlement of the Matters Addressed will avoid prolonged and complicated litigation, and that this Decree is fair, equitable, and reasonable, and in the public interest.

COVENANTS NOT TO SUE AND RESERVATION OF RIGHTS

48. Covenant Not to Sue Northrop Grumman. As of the Effective Date of this Decree, the State releases and covenants not to sue, execute judgment, or take any civil, judicial or administrative action under any federal, state, local, or common law (other than enforcement of this Decree) against Northrop Grumman or any of the Northrop Grumman Entities for any matter arising out of or relating to the Matters Addressed as defined in Paragraph 2 of this Decree, and thus resolves all Claims against Northrop Grumman or any of the Northrop Grumman Entities arising from or related to the Sites and/or the Plumes except any Claims that could now, or hereafter may be, asserted by the State against Northrop Grumman under CERCLA and any other federal state or local statute or regulation, or common law, relating to the remediation of soil

contaminated with Hazardous Substances in the Operable Unit 3 Area pursuant to the Operable Unit 3 Consent Order.

49. DEC Reservation of Rights.

- a. Notwithstanding any release, discharge, or covenant not to sue that Northrop Grumman receives from DEC, DEC reserves, and this Decree is without prejudice to, the right of DEC to institute proceedings in this action or in a new action seeking to compel Northrop Grumman: (a) to perform further response actions relating to the Sites or Plumes, or (b) to reimburse DEC for additional costs of response actions relating to the Sites or Plumes, but in either case only after DEC reasonably adopts a finding, after notice to Northrop Grumman, and only if DEC discovers conditions at the Sites or Plumes attributable to Operable Unit 3 that were previously unknown to DEC and which could not reasonably have been known to DEC as of the date of execution of this Decree (“Unknown Conditions”), and DEC discovers material information about such Unknown Conditions, previously unknown to DEC and which could not reasonably have been known to DEC as of the date of the lodging of this Decree (“Material New Information”); and DEC determines that the previously Unknown Conditions and Material New Information, together with any other relevant information, demonstrate that the conditions at the Sites or Plumes attributable to Operable Unit 3 are not protective of, and constitute a significant threat to, public health or the environment.
- b. For purposes of Paragraph 49.a, any conditions or information in the possession, custody, control or knowledge of DEC, or which could have been

reasonably known to DEC, prior to the date of lodging of this Decree, including but not limited to conditions and information set forth in any sampling data and other data, including any chemicals or compounds associated with the Sites or Plumes, and in any analyses, diagrams, maps, reports, and surveys performed at the Sites or Plumes, shall not be considered Unknown Conditions or New Information.

- c. In the event of a dispute over DEC's rights under Paragraph 49.a, the dispute, at the option of Northrop Grumman or DEC, may be referred to the Panel for a non-binding recommendation as to whether there has been an Unknown Condition or New Information; if not resolved informally, the dispute shall be determined by this Court as set forth in Paragraph 59 below.
- d. Northrop Grumman reserves all rights, including all defenses to any proceedings brought pursuant to Paragraph 49.a, including those rights relating to the Operable Unit 2 Consent Order and the Operable Unit 3 Consent Order. This Decree shall not be construed to require Northrop Grumman to perform any action in response to any proceedings brought pursuant to Paragraph 49.a absent a judicial determination that DEC's requirement of such action is consistent with this Decree.

50. Covenant Not to Sue by Northrop Grumman. Northrop Grumman releases and covenants not to sue, execute judgment, or take any civil, judicial or administrative action under any federal, state, local, or common law against the State, or its employees, departments, agencies, or instrumentalities, or to seek against the State any costs, damages, contribution, or attorneys' fees arising out of or relating to any of the Matters Addressed in this Decree. However, Northrop

Grumman may assert any Claims against any person other than the State, to the extent permitted by law, for any costs, damages, contribution, or attorneys' fees arising out of or related to any of the Matters Addressed in this Decree.

51. Approval Letters and Construction Completion Reports.

- a. Upon the completion of Northrop Grumman's obligations under this Decree to undertake the response actions pursuant to Paragraph 9 above and the natural resources damages actions pursuant to Paragraphs 17-19 above (exclusive of any annual payments Northrop Grumman may make or be required to make to Bethpage Water District pursuant to Paragraph 17 above), and DEC review and approval of the Final Engineering Report, and upon a showing by Northrop Grumman, based on the monitoring of groundwater elevation data and groundwater quality data collected from the installed Extraction Wells and monitoring wells for a minimum of four quarters or some other method agreed upon by the Parties, that the Extraction Wells (including DEC-EX 6), injection wells, monitoring wells), conveyance piping, water treatment facility(ies), and recharge basin(s) installed pursuant to this Decree are operating consistent with the DEC-approved Work Plans (or Panel-approved Work Plans, as applicable), DEC shall issue to Northrop Grumman a letter in which DEC will provide a determination that Northrop Grumman has fulfilled the construction-related obligations of this Decree, provided that DEC cannot unreasonably withhold or delay the approval of the Final Engineering Report or the issuance of said letter and further provided that in the event of a conflict between the terms of this Decree and the letter, the former shall govern. DEC's letter will make clear that

all of the systems constructed by Northrup Grumman pursuant to this Decree (e.g., Extraction Wells, injection wells, water treatment facility(ies), recharge basins) shall continue to be operated, and modified if needed, in accordance with the requirements of the DEC-approved Site Management Plan referenced in this Consent Decree.

- b. Northrup Grumman shall file a timely Construction Completion Report to DEC upon the completion of each of: (i) the construction of the RW-21 System; (ii) the connection of DECEX-6 to the Operable Unit 3 on-site control system; (iii) the installation of Extraction Wells in the ESE Half-Quadrant, connection to the treatment facility for such system and construction of the means of discharging treated groundwater; and (iv) the installation of Extraction Wells in the SSE Half-Quadrant, connection to the treatment facility for such system and construction of the means of discharging treated groundwater (collectively, "Remedial Systems"); and provided that DEC cannot unreasonably withhold or delay the approval of the Construction Completion Report for each of the four identified Remedial Systems.

CONTRIBUTION PROTECTION AND RELATED MATTERS

52. In consideration of Northrup Grumman's entering into this Decree, the Parties agree that Northrup Grumman is entitled, as of the Effective Date of this Decree, to the full extent of protection from contribution actions or Claims as provided by CERCLA, 42 U.S.C. § 9613(f)(2), the Uniform Comparative Fault Act, New York General Obligations Law § 15-108, and any other applicable provision of federal or state law, whether by statute or common law, extinguishing the potential liability of Northrup Grumman to persons not party to this Decree for

the Matters Addressed. As provided under CERCLA, 42 U.S.C. § 9613(f)(2), and New York General Obligations Law § 15-108, and to the extent authorized under any other applicable law, Northrop Grumman shall be deemed to have resolved its liability to the State under applicable law, including, without limitation, CERCLA, the New York Environmental Conservation Law and common law, for purposes of contribution protection and with respect to the Matters Addressed pursuant to and in accordance with this Decree. The Parties agree that entry of this Consent Decree constitutes a judicially approved settlement for purposes of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Defendant has, as of the Effective Date, resolved liability to the State for the Matters Addressed set forth in this Consent Decree.

53. Any rights Northrop Grumman may have to obtain contribution or to otherwise recover costs or damages from persons not party to this Decree and all Claims and defenses of Northrop Grumman with respect to all persons other than the State are preserved, except as otherwise provided in Paragraph 54 below.

54. Northrop Grumman shall be entitled, to the fullest extent of the law, to protection from any Claims against it by any potentially responsible party, as defined in CERCLA, 42 U.S.C. § 9607(a) and/or identified as such in the AROD (including predecessors and successors thereto), seeking costs of response pursuant to CERCLA, 42 U.S.C. § 9607, and any other applicable provision of federal, state or local statute or regulation, or common law, arising out of or in connection with the Matters Addressed, (a) provided that such potentially responsible party was afforded public notice by the State or the Court of the proposed lodging of this Decree and had an opportunity to comment thereon, and (b) further provided that Northrop Grumman waives its right to seek costs of response pursuant to CERCLA, 42 U.S.C. § 9607, and any other analogous state or local statute or regulation, or common law, or to seek contribution as provided by CERCLA, 42

U.S.C. § 9613(f)(3)(B), the Uniform Comparative Fault Act, New York General Obligations Law § 15-108, and any other analogous state or local statute or regulation or common law, against the Navy for the Matters Addressed set forth in this Decree. This provision for barring further litigation and achieving finality is integral to resolving the Parties' dispute and a necessary condition of Northrop Grumman's agreement to this Consent Decree, as Northrop Grumman would not have agreed to the actions and payments pursuant to this Decree if it could be sued by other potentially responsible parties for response costs in addition to those reflected in this Decree. Provided, however, that nothing in this Decree shall prevent (a) a Water District or (b) the Town of Oyster Bay from raising claims under CERCLA or any other federal, state or local statute or regulation, or common law, including contribution claims, against Northrop Grumman or any other responsible party arising from contaminated groundwater that is the subject of this Decree, and provided further that Northrop Grumman reserves all rights and defenses to such claims, including but not limited to defenses based on response actions taken under this Consent Decree. In the event that a Water District or the Town of Oyster Bay sues Northrop Grumman, or the Navy or the United States, under CERCLA or other laws regarding the Matters Addressed, nothing in this Decree shall prevent Northrop Grumman, or the Navy or the United States, from impleading one another as a third-party defendant.

**DISMISSAL OF THE STATE'S CLAIMS AND
RETENTION OF JURISDICTION**

55. The Complaint against Northrop Grumman is hereby dismissed with prejudice.

56. For purposes of entry and enforcement of this Decree, the parties to this Decree agree that the Court has jurisdiction in this matter and shall retain jurisdiction until Northrop Grumman has fulfilled its obligations hereunder.

EFFECT ON LIABILITY OF OTHER PARTIES

57. Nothing in this Decree is intended as a release of, or covenant not to sue with respect to, any person or entity other than Northrop Grumman or the Northrop Grumman Entities, and the State expressly reserves its rights to assert in a judicial or administrative forum any claim or cause of action, past or future, in law or in equity, that the State may have against any other person, firm, corporation, or other entity.

COMPLIANCE, FORCE MAJEURE, AND ENFORCEMENT

58. Northrop Grumman shall not be in violation of this Decree if Northrop Grumman cannot comply with any requirement because the failure to comply is the result of a force majeure event ("Force Majeure Event"). A Force Majeure Event shall include acts of God, work stoppages due to labor disputes or strikes, fires, explosions, epidemics (including, without limitation, conditions arising from state or local emergency orders issued to respond to the COVID-19 pandemic), delay in obtaining materials due to global supply chain supply holdups, refusal of a governmental authority to provide a necessary Authorization, riots, war rebellion, or sabotage, or any other condition that was not caused by the negligence or willful misconduct of Northrop Grumman and that could not have been avoided by Northrop Grumman through the exercise of due care. If a failure of or delay in performance by Northrop Grumman results from the occurrence of a Force Majeure Event, the delay shall be excused and the time for performance extended by a period equivalent to the time lost because of the Force Majeure Event, if and to the extent that the:

- (i) delay or failure was beyond the control of Northrop Grumman and not due to its fault or negligence;
- (ii) delay or failure was not extended because of Northrop Grumman's failure to use reasonable diligence to overcome the obstacle or to resume performance immediately after such obstacle was overcome;
- (iii) Northrop Grumman provides notice to DEC within 15 days of

Northrop Grumman's knowledge that the event would prevent or delay performance that it is invoking the protection of this provision; and (iv) such notice includes the measures taken and to be taken to prevent or minimize any delays, and may request an appropriate extension or modification as appropriate. Northrop Grumman shall be deemed to know of any circumstance which it, any entity controlled by it, or its contractors knew or should have known.

59. This Court shall have jurisdiction to enforce the Operable Unit 2 Consent Order, Operable Unit 3 Consent Order, Work Plans and submittals issued under this Decree, and decisions made under General Dispute Resolution, including without limitation any formal disputes arising with respect to this Decree or such Consent Orders, and any enforcement or formal disputes shall be brought only to this Court. This Court shall have jurisdiction over, and the State and Northrop Grumman have the right to seek to enforce this Decree in this Court. Consistent with the provisions of Paragraph 3 above, prior to a Party invoking judicial review of the terms and conditions of this Decree, it shall provide the other Party with at least 15 days' notice of the subject matter of the proposed invocation of judicial review, including, as applicable, an opportunity for the other Party to cure any alleged breach of this Decree within a reasonable time (based on the alleged contravention of this Decree), and the Parties shall consult within and seek to reach resolution of the subject matter within 30 days of such notice. If the Parties are not successful in resolving the matter, the Party raising the matter may invoke judicial review.

NOTIFICATIONS

60. Any notification to the State and/or Northrop Grumman shall be in writing or electronic mail and shall be deemed properly given if sent to the following addresses or to such other addresses as the parties may specify:

- a. Communication to the State shall be sent to:

Jason Pelton, P.G.
Project Manager
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233
(518) 402-9676
jason.pelton@dec.ny.gov

James Sullivan
New York State Department of Health
Empire State Plaza
Corning Tower, Room #1787 Albany, New York 12237
(518) 402-7860
beej@health.ny.gov

Michael C. Murphy, Esq.
Senior Attorney, Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1500
(518) 402-8564
michael.murphy1@dec.ny.gov

Andrew G. Frank, Esq.
Assistant Attorney General
New York State Attorney General's Office
Environmental Protection Bureau
28 Liberty Street, 19th Floor
New York, New York 10005
(212) 416-8271
andrew.frank@ag.ny.gov

- b. Communication to Northrop Grumman shall be sent to:

Northrop Grumman Systems Corporation
Attn: Edward J. Hannon, Environmental, Safety, Health and Medical
Manager
925 South Oyster Bay Road
M/S Q06305/BP14
Bethpage, NY 11714-3582
edward.hannon@ngc.com

Fern Fleischer-Daves
Assistant General Counsel – Environmental, Health and Safety
and Real Estate Law
Northrop Grumman Corporation
2890 Fairview Park Drive
Mall Stop #12161A
Falls Church, VA 22042-4511
fern.fleischer-daves@ngc.com

Mark A. Chertok, Esq.
Daniel Riesel, Esq.
Sive, Paget & Riesel, P.C.
560 Lexington Avenue, 15th Fl
New York, NY 10022
mchertok@sprlaw.com
driesel@sprlaw.com

COMPLETE AGREEMENT

61. This Decree constitutes the complete agreement of the Parties. This Decree may not be amended, modified, supplemented, or otherwise changed without approval of this Court and the written consent of both the State and Northrop Grumman, except as provided in Paragraph 30 above. This Decree may be signed in counterparts.

EFFECTIVE DATE

62. This Decree shall become effective when it is entered by the Court (the “Effective Date”). Unless otherwise specified, all times for performance of activities under this Decree shall be calculated from that date.

EFFECT OF FAILURE TO OBTAIN COURT APPROVAL

63. If for any reason the Court should decline to approve this Decree in the form presented, or if approval and entry is subsequently vacated on appeal of such approval and entry, this agreement is voidable at the sole discretion of any Party, and the terms of the agreement may not be used as evidence in any litigation between the Parties.

FINAL JUDGMENT

64. This Decree and its exhibits are the final, complete, and exclusive agreement and understanding among the Parties regarding the settlement embodied in the Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Decree.

65. Upon entry of this Decree by the Court, this Decree shall constitute a final judgment. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Federal Rules of Civil Procedure 54 and 58.

AGREED TO BY:

Dated: June 27th, 2022

STATE OF NEW YORK and BASIL SEGGOS,
as Commissioner of the New York State
Department of Environmental Conservation and
Trustee of New York State's Natural Resources

By: 

Name: Thomas Berkman
Title: Deputy Commissioner and
General Counsel,
New York State Department
of Environmental Conservation

Dated: _____, 2022

NORTHROP GRUMMAN SYSTEMS
CORPORATION

By: _____

Name: Colin R. Miller
Title: VP Mission and Quality
Assurance,
Northrop Grumman Systems
Corporation, Aeronautics
Systems Sector

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AGREED TO BY:

Dated: _____, 2022

STATE OF NEW YORK and BASIL SEGGOS,
as Commissioner of the New York State
Department of Environmental Conservation and
Trustee of New York State's Natural Resources

By: _____

Name: Thomas Berkman
Title: Deputy Commissioner and
General Counsel,
New York State Department
of Environmental Conservation

Dated: JUNE 27, 2022

NORTHROP GRUMMAN SYSTEMS
CORPORATION

By:  _____

Name: Colin R. Miller
Title: VP Mission and Quality
Assurance,
Northrop Grumman Systems
Corporation, Aeronautics
Systems Sector

August 3, 2022

So Ordered

s/Nina Gershon

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Nina Gershon USDJ