

AGREEMENT MADE THIS 11<sup>th</sup> DAY OF September, 1985

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
ONTARIO as represented by the Minister of the  
Environment,

(hereinafter called the "Crown")

- and -

THE CORPORATION OF THE CITY OF LONDON

(hereinafter called the "City")

- and -

WESTINGHOUSE CANADA INC.

(hereinafter called "WCI")

1. WHEREAS:

- (a) The Crown alleges that contaminants (within the meaning of the Environmental Protection Act, R.S.O. 1980, c. 141) have been found in the storm water drainage system downstream from WCI's plant site on Huron Street in London, Ontario, which includes the Walker Drain and that part of Pottersburg Creek below the point of entry of the

Walker Drain into Pottersburg Creek (the "Drainage System") and further that some of these contaminants escaped or were discharged into the Drainage System from WCI's plant site;

- (b) The Crown plans to take all necessary steps to eliminate the contamination and to recover costs thereof from those responsible for the presence of the contaminants in the Drainage System;
- (c) It is in the interests of the parties hereto to settle all disputes and claims arising from the alleged escape or discharge of the contaminants from WCI's plant site;
- (d) Based on WCI's representations and the agreements below on the part of WCI, the Ministry of the Environment and the the City do not intend to initiate any further action against WCI with respect to the escape or discharge of the contaminants, subject to the exception in clause (k); and
- (e) The Crown represents that it is entering into this agreement with the approval of the Lieutenant Governor in Council pursuant to clause 3(j) of the Environmental Protection Act.

2. The parties therefore agree pursuant to clause 3(j) of the Environmental Protection Act as follows:

- (a) The cost (as provided in clauses (b) to (h)) incurred in the elimination of contamination of

the Drainage System will be contributed to by WCI as provided for in this agreement;

- (b) WCI will convey to the Crown or such other Minister of the Crown as it designates, in writing, free of all encumbrances the lands described in Schedule A hereto for the purpose of the Crown establishing the waste deposit site described in the remedial plan dated July 12, 1985 submitted by Conestoga-Rovers and Associates Limited, Consulting Engineers (the "Remedial Plan");
- (c) WCI will pay to the Treasurer of Ontario, through the Ministry of the Environment, a lump sum payment of five hundred thousand dollars (\$500,000.00) on receipt of an invoice from the Crown for the elimination of contamination in the Drainage System;
- (d) WCI will pay Conestoga-Rovers and Associates Limited, Consulting Engineers, for the preparation of the Remedial Plan for the Walker Drain, the provision of contract documents suitable for the tendering of a contract for clean up of the Walker Drain area and the construction of the vault on WCI property described in Schedule A;
- (e) WCI, on receipt of an invoice from the Crown, will pay an additional lump sum payment to the Treasurer of Ontario through the Ministry of the Environment in the amount of two hundred thousand dollars (\$200,000.00) for any costs associated with, but not limited to, the treatment and/or removal of contaminated material stored, or to be stored, on the lands described in Schedule "A".

- (f) WCI will make available to the Crown, at cost, as herein defined, its facility and technology, presently being developed or which may be developed or acquired by WCI in the future, for the treatment of PCB wastes should the Crown decide to treat the wastes stored, or to be stored, on the lands described in Schedule "A". The word cost as used in this subparagraph shall mean such personnel and facility costs as are directly related to the treatment of wastes requested by the Crown to be treated. The costs shall include such matters as a charge, calculated using accepted accounting practices for the use of any equipment used in the treatment of the waste and a charge for the labour costs directly related to the handling and processing of the wastes. These charges and costs shall not include any overhead except that which is directly applicable to the treatment of the waste. This clause will be in effect until December 31, 1992 and thereafter will be subject to further discussion between the parties.
- (g) WCI will pay for the costs of any survey or documentation required for conveyance of the land described in Schedule "A" to the Crown.
- (h) WCI will provide a temporary access route to the lands described in Schedule "A" for the purpose of constructing the vault or vaults and the disposal of contaminated soil into the vault and if future access to the land by heavy vehicles is required by the Crown for purposes related to the waste stored or to be stored thereon and WCI retains control of contiguous land which remains suitable for heavy vehicle traffic, WCI will permit access

over its lands to the lands, described in Schedule "A" for such purposes.

- (i) In consideration of this agreement the Crown and the City hereby release and forever discharge WCI, its employees, servants and agents from any and all actions, causes of action, rights to relief, claims, interest, costs and demands whatsoever for damages, loss or injury, however arising, resulting in any way from the escape, discharge or alleged escape or discharge of PCBs and related contaminants discharged to or through the Drainage System from the WCI plant site prior to the date of this agreement.
- (j) The Crown and the City indemnify and save harmless WCI against any action or claim that may be brought or made by an independent third party against WCI (except pursuant to a contract) for any monies claimed by the Crown or the City against such independent third party pertaining to an escape, discharge or alleged escape or discharge referred to in clause (i) but only to the extent of the claim by the Crown or the City.
- (k) Notwithstanding clause (i), if an independent third party shall make a claim not referred to in clause (j) against the Crown or the City for damages or other relief arising in any way from an escape, discharge or alleged escape or discharge referred to in clause (i), the Crown or the City may claim relief by way of contribution or indemnity against WCI.

- (l) The Crown hereby agrees to limit the contaminated material to be placed in the waste deposit site to an amount that shall not exceed 35,000 cubic yards without further consultation with WCI.
- (m) This agreement is entered into without the admission of any liability whatsoever on the part of WCI or the Crown or the Corporation of the City of London.
- (n) This agreement shall enure to the benefit of and be binding on the parties hereto and their respective successors and assigns.
- (o) This agreement comes into effect only when it is duly executed by all three parties.

IN WITNESS WHEREOF the parties hereto execute this settlement under seal.

DATED the 11<sup>th</sup> day of September, 1985

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO as represented by the Minister of the Environment

Per: *Jim Bradley*

THE CORPORATION OF THE CITY OF LONDON

Per: *M. G. Glenon*  
(Mayor)

*K. J. Sadler* c/s  
Deputy  
(City Clerk)

APPROVED	
LEGAL DEPT. C. OF L.	<i>[Signature]</i>
DATE	13/8/85

WESTINGHOUSE CANADA INC.

Per: *[Signature]*  
(office Vice-President)

Per: *Pain hem. Hunsay*  
(office Secretary)

APPROVED	
AS TO TERMS	<i>[Signature]</i>
By	<i>[Signature]</i>
Date	8/8/85
AS TO	<i>[Signature]</i>
By	<i>[Signature]</i>
Date	8/8/85