

**AGREEMENT OF SETTLEMENT AND COMPROMISE
TO RESOLVE THE CAYUGA INDIAN NATION OF NEW YORK'S LAND TITLE
AND TRESPASS CLAIMS OF LANDS SITUATED IN THE STATE OF NEW YORK**

Subject to the authorization and ratification by an Act of Congress, this Agreement of Compromise and Settlement ("Agreement") is made as of the 17th day of November, 2004 between the Cayuga Indian Nation of New York ("Nation") and the State of New York ("State"); sometimes referred to collectively as the "Parties."

RECITALS

WHEREAS, on February 25, 1789, the State and the historic Cayuga Nation of Indians ("CNI" or "Cayugas") entered into a treaty ("1789 Treaty") which provided for the cession of Cayuga lands to the State, and set aside an area comprising approximately 64,015 acres for the use of the Cayugas ("Claim Area"); and

WHEREAS, in 1790, Congress enacted the first in a series of Indian Trade and Intercourse Acts (Act of July 22, 1790, ch. 3, 1 Stat. 137) ("ITIA"). The 1790 Act was replaced by the Indian and Trade Act of 1793 (Act of March 1, 1793, ch. 19, 1 Stat. 329) which provided in relevant part, "That no purchase or grant of lands, or any title or claim thereto, from any Indians or nation of Indians, within the bounds of the United States, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution...." With some modifications, this provision of the ITIA was subsequently reenacted and is today contained in 25 U.S.C. § 177; and

WHEREAS, in 1794, the United States concluded a treaty with the Six Nations of Indians, in which the United States "acknowledged" the area set aside for the use of the Cayugas in the 1789 Treaty as their reservation. Treaty of Canandaigua, 7 Stat. 44, Article II; and

WHEREAS, on July 27, 1795, the State entered into a treaty ("1795 Treaty") with the Cayugas which provided for the cession of the Cayugas' interest in the majority of the land in the Claim Area; and

WHEREAS, on May 30, 1807, the State entered into a treaty ("1807 Treaty") with the Cayugas which provided for a cession of the Cayugas' interest in the remaining land in the Claim Area; and

WHEREAS, after the 1795 and 1807 Treaties, the State conveyed land within the Claim Area, in large part, to private purchasers through a series of transactions over a number of years; and

WHEREAS, in 1980, the Nation filed two separate actions in the United States District Court for the Northern District of New York, against various state officials and departments, municipalities and a defendant class of persons who asserted an interest in land in the Claim Area alleging that the 1795 and 1807 Treaties violated the ITIA, seeking a declaration of the Nation's ownership of and right to possess lands in the Claim Area, an award of fair rental value for the approximately 200 years during which they have been out of possession, and other monetary and protective relief. The two actions were later consolidated and the consolidated action was entitled Cayuga Indian Nation of New York v. Pataki, No. 80-CV-930/No. 80-CV-960 ("Land Claim"); and

WHEREAS, in 1992, the District Court granted a motion by the United States of America ("United States") to intervene as a plaintiff-intervenor in the Land Claim on its own behalf and on behalf of both the Nation and the Seneca-Cayuga Tribe of Oklahoma ("Tribe"); and

WHEREAS, after making certain determinations with respect to liability and remedies, the District Court in the Land Claim ordered that the case proceed against the State first as to damages; and

WHEREAS, a jury rendered a verdict for \$36,911,682.62 in damages and the District Court awarded \$211,000,326.80 in prejudgment interest, and thereafter entered a judgment against the State in the Land Claim in the total amount of \$247,911,999.42; and

WHEREAS, there is currently pending in the United States Court of Appeals for the Second Circuit an appeal from the judgment entered, and certain rulings made by, the District Court in the Land Claim and certain cross-appeals by the Nation and the Tribe; and

WHEREAS, the claims made against the municipal defendants and the defendant class in the Land Claim have not been fully resolved by the District Court and are currently still pending; and

WHEREAS, in 2003, the Nation filed an action against the Village of Union Springs, Town of Springport, and County of Cayuga, New York in the United States District Court for the Northern District of New York entitled Cayuga Indian Nation of New York v. Union Springs, et al., No. 03-CV-1270 (“Union Springs”), in which the Nation asserted certain claims with respect to jurisdiction over land purchased by the Nation within the Claim Area; and

WHEREAS, the District Court entered summary judgment in favor of the Nation against the defendants in Union Springs on April 23, 2004; and

WHEREAS, there is currently an appeal from such decision in Union Springs pending in the United States Court of Appeals for the Second Circuit; and

WHEREAS, pendency of the Land Claim and Union Springs has resulted in uncertainty about the status of the land in the Claim Area, and economic hardships for the Nation and the residents of the State, including residents of the Counties of Cayuga and Seneca; and

WHEREAS, the Parties believe it is in their mutual best interests to settle the claims asserted by the Nation in the Nation’s Land Claim and that all other actions regarding any