

**AGREEMENT OF SETTLEMENT AND COMPROMISE
TO RESOLVE THE STOCKBRIDGE-MUNSEE LAND CLAIMS
IN THE STATE OF NEW YORK**

The purpose of this Agreement is to record the understanding of the parties with respect to final resolution and settlement of the claims and suit pending in the United States District Court for the Northern District of New York entitled *The Stockbridge-Munsee Community v. The State of New York*, docketed as No. 86-CV-1140 ("Stockbridge Land Claim"), and any other claim described in Section II(A)(3) of this Agreement. It is the intent of the parties that this Agreement shall form the basis, in part, for the enactment of Federal and State legislation that will justly resolve, with finality and permanence, all claims to land or natural resources, and damages with respect thereto, and/or the existence of a reservation, within the claim areas in Madison and Oneida Counties described in the amended complaint filed in the Stockbridge-Munsee Action and the amended complaints filed in *Oneida Indian Nation of New York v. State of New York, et al.*, pending in the United States District Court for the Northern District of New York, Docket No. 74-CV-187, or elsewhere in the State, against the State or third parties based on aboriginal, reserved or recognized Indian title or any other form of Indian right or title, and all claims of any other Indian tribe, nation, band or group as described in Section II(A)(3) below. By signing this Agreement, each party signifies its good faith commitment to fulfill the terms of settlement set forth in this Agreement. The parties recognize, however, that for this Agreement to become effective and binding, formal ratification will be required by the Tribe and legislation will be required to be enacted by the State and the United States. The parties agree that they will use their best efforts to ensure passage of federal and state legislation and tribal action implementing the

provisions of this Agreement without any material change and will attempt throughout the legislative process to fulfill the intent of this Agreement.

Subject to authorization and ratification by an Act of Congress, this Agreement of Compromise and Settlement is made as of the 6th day of December, 2004 by and between the State of New York ("State") and the Stockbridge-Munsee Community, Band of the Mohican Indians (together with its predecessors and successors, the "Tribe"), sometimes collectively referred to as the "Parties."

RECITALS

WHEREAS, the Tribe is a federally-recognized Indian tribe that is recognized by the United States as the successor in interest to the Mohican Indians, Mahicans or "Muh-he-con-neok" that once occupied lands within the Hudson and Champlain valleys and who met with Henry Hudson on the *Half Moon* in 1609;

WHEREAS, the Tribe's most significant religious, cultural and historical sites are located, and many of its ancestors are buried, in New York State;

WHEREAS, in 1788 the State of New York and the historic Oneida Indian Nation (the "Oneidas") entered into the Treaty of Fort Schuyler which provided for the cession of land by the Oneidas, and further provided in part that "the Stockbridge Indians and their posterity forever are to enjoy their settlement on the lands heretofore given to them by the Oneidas for that purpose . . . that is to say . . . a tract of six miles square . . ." (the six-mile square area so described hereinafter referred to as the "Stockbridge Claim Area");

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;

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 in the 1788 Treaty of Fort Schuyler and undertook “never to claim the same nor disturb [the Oneidas] . . . nor their Indian friends residing thereon and united with them, in the free use and enjoyment thereof . . .” 1794 Treaty of Canandaigua, 7 Stat. 44, Article II;

WHEREAS, during the period from 1818 to 1842, the State entered into a series of land purchase agreements with the Tribe as a result of which the vast majority of the land within the Stockbridge Claim Area was transferred to the State;

WHEREAS, following the transfers of land from the Tribe to the State, the State conveyed those lands to private purchasers through a series of transactions over a number of years;

WHEREAS, in 1986, the Tribe filed an ejectment suit in the United States District Court for the Northern District of New York against various state officials and departments, counties, and municipalities and alleging that through a series of fifteen land purchase agreements between 1818 and 1842 the State illegally dispossessed the Tribe of its interest in land in the Stockbridge Claim Area and claiming a right to damages and possession of land and natural resources within the Stockbridge Claim Area;

WHEREAS, in 1996 and 2002, the United States Department of the Interior, based on its opinion that the Tribe's claim is meritorious and that the Tribe is the only proper tribal claimant to the Stockbridge Claim Area, requested the United States Department of Justice to intervene in the New York Land Claim on behalf of the Tribe;

WHEREAS, the Stockbridge Land Claim has resulted in uncertainty about the status of the land in the Claim Area, and may result in economic and social hardships for thousands of landowners, citizens and communities in the State of New York; and

WHEREAS, the Parties believe it is in their mutual best interests to settle the claims that have been asserted by the Tribe in its Stockbridge Land Claim and any other claims of the Tribe with respect to any other land in New York and that the Stockbridge Land Claim should be dismissed.

NOW THEREFORE, in consideration of the following terms, conditions, and promises, the Parties agree as follows:

TERMS OF AGREEMENT

I. DEFINITIONS

When used in this Agreement, unless a different meaning clearly appears from the context, the following words, terms or abbreviations shall have the meanings given below:

A. "Additional Land" means up to 180 acres, as agreed to by the Tribe and Governor, that may be acquired by the Tribe through voluntary purchase from willing sellers, or gift or transfer, located in Sullivan County in addition to, and contiguous with, the Settlement Land and which shall be taken into trust by the Secretary upon the request of the Tribe for purposes of Class III gaming.

B. "Attorney General" means the Attorney General of the United States.

C. "Brothertown Indians" means the Brothertown (or Brotherton) Indians of Wisconsin and the New York Brothertown Indian Nation and any other nation, tribe, band or group of Brothertowns or Brotherton Indians with a claim, or an interest in land in New York.

D. "Class II Gaming" means gaming as defined in 25 U.S.C. §2703(7).

E. "Class III Gaming" means gaming as defined in 25 U.S.C. §2703(8).

F. "Federal Settlement Legislation" means the act of Congress enacted to implement and effect the terms, provisions, and conditions of this Agreement.

G. "Historic Site" or "Historical Sites" mean a site or sites with historic or cultural significance for the Tribe, including but not limited to short or long-term habitation sites of the Tribe, work sites such as quarries, sites containing tribal ancestral

remains, funerary objects or other artifacts. The criteria established in the National Historic Preservation Act of 1966, as amended, and the guidelines issued by the National Park Service in support of said act shall be determinative when defining a property as a Historic Site.

H. "ITIA" means the Indian Trade and Intercourse Act, Act of July 22, 1796, ch. 3, 1 Stat. 131, together with any and all amendments thereto and subsequent reenactments thereof.

I. "Member" means individuals who, at the relevant time, are or were bona fide or actual members of the Tribe, or any other Indian nation, tribe, band or group described herein, including descendants of Members.

J. "Net Drop" means money dropped into Slot Machines, after payout but before expenses, and totaled on a cumulative quarterly basis to be adjusted annually at the end of the relevant fiscal year.

K. "New York Oneidas" means the Oneida Indian Nation of New York, a federally recognized Indian tribe.

L. "Oneida Aboriginal Territory" means the full extent of the area now located in the State of New York over which the historic Oneida Indian Nation at any time had or claimed an aboriginal or original right of possession, use or occupation, whether described as aboriginal title, original title, Indian title, or otherwise.

M. "Oneida Claim Area" means all or any portion of the area claimed in the amended complaints filed in *Oneida Indian Nation of New York v. State of New York, et al.*, pending in the United States District Court for the Northern District of New York, Docket No. 74-CV-187.

N. "Oneida Land Claim" means the claim of the Wisconsin Oneidas, New York Oneidas and Oneidas of the Thames to land and natural resources (and damages related thereto) within the Oneida Claim Area located in Madison and Oneida Counties, New York that is the subject of the Tribe's lawsuit filed in 1974 in the United States District Court for the Northern District of New York entitled *Oneida Indian Nation of New York v. State of New York, et al.*, Docket No. 74-CV-187.

O. "Secretary" means the Secretary of the Interior of the United States.

P. "Settlement Agreement" or "Agreement" mean this Agreement between the Tribe and the Governor of the State of New York.

Q. "Settlement Land" means a tract of 440 acres, more or less, in the Town of Thompson, Sullivan County, New York, as agreed to by the Tribe and Governor, acquired by the Tribe for the purpose of conducting Class III gaming and which lands shall be held by the Secretary in trust on behalf of the Tribe.

R. "Slot Machine" shall be defined as a video facsimile or slot machine which means any mechanical, electrical or other device, contrivance or machine, which upon insertion of a coin, currency, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash or to receive any merchandise or thing of value, whether the payoff is made automatically from the machine or in any other manner whatsoever, but shall not include "video lottery gaming devices" as such term is defined in subsection (AA) of this Section.

S. "State of New York" or "State" mean the State of New York, its departments, agencies, authorities, instrumentalities, agents, officers, employees, political subdivisions, citizens, inhabitants and any predecessors or successors in interest.

T. "State Settlement Legislation" means the act of the New York State Legislature enacted to implement and effect the terms, provisions, and conditions of this Agreement.

U. "Stockbridge Claim Area" means the lands that comprise the six-mile-square area described in the 1788 Treaty of Fort Schuyler referenced above. The Stockbridge Claim Area is presently the subject of the Stockbridge Land Claim.

V. "Stockbridge Land Claim" means the Tribe's claim to land and natural resources (and damages related thereto) within the six-mile-square Stockbridge Claim Area located in Madison and Oneida Counties, New York that is the subject of the Tribe's lawsuit filed in 1986 in the United States District Court for the Northern District of New York, entitled *Stockbridge-Munsee Community v. State of New York*, docketed as 86-CV-1140.

W. "Stockbridge-Munsee Ancestral Territory" means that geographic area stretching approximately from northern Dutchess County to the borders of Lake Champlain, and from the east side of the Housatonic River to a point west of present Schenectady using Schoharie Creek as the western boundary, which the Tribe or its predecessors at any time had or claimed an aboriginal or original right of possession, use or occupation, whether described as aboriginal title, original title, Indian title or otherwise.

X. "Sullivan County Land" means the Settlement Land together with any Additional Land that may be taken into trust by the Secretary.

Y. "Transfer" means any transaction, including, without limitation, the fifteen (15) nineteenth-century transactions at issue in the Stockbridge Land Claim, and the approximately twenty-six eighteenth and nineteenth century transactions at issue in the Oneida Land Claim, involving, or the purpose of which was to effect a change in possession of, title to, or control of any land or natural resources, and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of, land or natural resources, including any sale, cession, grant, lease, allotment, partition, or conveyance, whether pursuant to a treaty, compact or statute of a State or otherwise.

Z. "Tribe" means the Stockbridge-Munsee Community, Band of Mohican Indians, a federally-recognized Indian tribe.

AA. "Video Lottery Gaming Devices" shall be defined as a network of five or more player terminals, connected to the New York State or any other on-line system, with touch-screen, button-controlled video screen or other electronic display devices, including but not limited to single or multi-stage displays, secondary electronically-controlled displays such as wheels, dice, or other displays or other such devices operated by the New York Lottery as a result of implementation of Part C of Chapter 383 of the Laws of 2001, as amended.

BB. "Wisconsin Oneidas" means the Oneida Tribe of Indians of Wisconsin, a federally recognized Indian tribe.

II. EFFECTIVENESS OF THIS AGREEMENT

A. This Agreement shall not take effect or be binding upon the Parties, and shall not become effective, until all of the following actions have been performed and completed:

1. The Agreement is approved and duly executed by each of the respective parties in accordance with and pursuant to requisite authority;

2. The New York State Legislature enacts and the Governor approves any legislation, consistent with the terms of this Agreement that may be necessary to approve, authorize, ratify, validate or implement this Agreement. Such legislation shall, among other things, (a) expressly authorize the limited waiver of Eleventh Amendment immunity from suit contained herein; and (b) increase from three to five the number of authorized Class III gaming facilities in the counties of Sullivan and Ulster (“State Settlement Legislation”);

3. The United States Congress enacts and the President signs a legislative act which implements and does not alter the essential terms and conditions of this Agreement (“Federal Settlement Legislation”) and provides for:

- a. authorization and ratification of this Agreement;
- b. the confirmation, approval and ratification, nunc pro tunc, of any transfer by which the State or others obtained land whether by cession, purchase, grant, lease or other conveyance from the Tribe, Wisconsin Oneidas, New York Oneidas, Brothertown Indians or Oneida of the Thames or any other Indian nation, tribe, band or group, or any actual or purported Member or part of any such tribe, nation, band or group or predecessor or successor thereto, in the

Stockbridge-Munsee Ancestral Territory, the Stockbridge Claim Area, Oneida Claim Area or Oneida Aboriginal Territory, including without limitation the land transfers at issue in the Stockbridge Land Claim and the Oneida Land Claim, subject to the terms and conditions of this Agreement. All such transfers shall be deemed to have been made in accordance with the Constitution, laws of the United States, including without limitation the ITIA, and treaties, including without limitation the 1794 Treaty of Canandaigua, 7 Stat. 44;

c. the disestablishment of any reservation of the Tribe, New York Oneidas, Wisconsin Oneidas, Brothertown Indians or the Oneida of the Thames, or any other Indian tribe, nation, band or group, that may have existed in the Oneida Aboriginal Territory, Oneida Claim Area, Stockbridge Claim Area or Stockbridge-Munsee Ancestral Territory, including, without limitation, any reservation acknowledged in Article II of the 1794 Treaty of Canandaigua, 7 Stat. 44;

d. extinguishment of all aboriginal, recognized or reserved title and any other form of Indian right or title to land or natural resources, including all hunting, fishing, trapping, water rights or rights to any other natural resources, of the Tribe, New York Oneidas, Wisconsin Oneidas, Brothertown Indians and Oneida of the Thames, and any actual or purported Member or part thereof, or predecessor or successor thereto, to land or natural resources within the State of New York, and extinguishment of all aboriginal, recognized or reserved title and any other form of Indian right or title to land or natural resources, including all hunting, fishing, trapping, water rights or rights to any other natural resources, of

any other Indian nation, tribe, band or group, or any actual or purported Member or part thereof, or predecessor or successor thereto, to any land or natural resources in the Stockbridge Claim Area, Stockbridge-Munsee Ancestral Territory, Oneida Claim Area or Oneida Aboriginal Territory;

e. Notwithstanding any provision of law or regulation to the contrary but subject to the conditions set forth below, the New York Oneidas shall be entitled to have and possess up to a total of 35,000 acres of Oneida Treaty Land which shall have the same legal status and protection as lands acquired as mandatory acquisitions and held by the United States in trust pursuant to 25 U.S.C. § 465 and shall be considered Indian country within the meaning of 18 U.S.C. § 1151. The Oneida Treaty Land shall consist of (i) those fee lands held at the date of signing of this Agreement within the Oneida Claim Area or Stockbridge Claim Area by the New York Oneidas; and (ii) land subsequently acquired by the New York Oneidas within the Oneida Claim Area or Stockbridge Claim Area, up to a maximum of 35,000 acres (including land currently held by the New York Oneidas); provided, however, that no land acquired by the New York Oneidas after the date of the signing of this Agreement that is within the area of land transferred by the Treaty held with the Oneida Nation or Tribe of Indians on June 1, 1798, subsequently ratified by the United States Senate and proclaimed by the President of the United States, shall be Oneida Treaty Land. Such additional land is to be acquired by the New York Oneidas by purchase from willing sellers, gift, or voluntary transfer and must either be contiguous to existing parcels owned by the New York Oneidas or first approved for acquisition as

Oneida Treaty Land by the county in which such land is located. Within 60 days following the passage of the Federal Settlement Legislation, the New York Oneidas shall provide a list to the Secretary of all land owned on the date of signing this Agreement, which land shall be designated by the Secretary as Oneida Treaty Land, and within 60 days of the acquisition of additional land to be designated as Oneida Treaty Land under subsection (ii) above, the New York Oneidas shall give written notice of such acquisition to the Secretary, which land shall be designated by the Secretary as Oneida Treaty Land. No land may be designated as Oneida Treaty Land unless and until (i) the New York Oneidas and the counties of Oneida and Madison first enter into mutually acceptable agreements for the provision of fire, police and other municipal services, and (ii) the New York Oneidas and State enter into an agreement or agreements, on a mutually agreeable basis, to provide price or tax parity with respect to pricing and taxation of cigarettes, tobacco products, automotive fuel and other tangible personal property and services. In addition, the New York Oneidas shall adopt and enforce on Oneida Treaty Land the following: (i) building codes which shall be no less stringent than the standard set forth in the International Business Code issued by the International Code Council, the National Electric Code, issued by the National Fire Protection Association, and the International Plumbing Code, issued by the International Code Council and other standards referenced by the International Building Code, as revised from time to time; and (ii) environmental standards no less stringent than those prescribed by federal and state environmental laws, provided that in the event that the New York Oneidas adopt

environmental standards that are more stringent than those prescribed by then existing federal and state environmental laws, such New York Oneida standards shall not affect any rights with respect to the use of or activities on land outside of the Oneida Treaty Land. Other than the 35,000 acres described above, the New York Oneidas shall not be permitted to have any land within the Stockbridge Claim Area, Stockbridge-Munsee Ancestral Territory, Oneida Claim Area or Oneida Aboriginal Territory taken into trust pursuant to 25 U.S.C. §151;

f. extinguishment of any and all claims that the Tribe, or any actual or purported Member or part thereof, or predecessor or successor thereto, may have to any land or natural resources or reservation in the State of New York, and any and all claims that the Tribe, or any actual or purported Member or part thereof, or predecessor or successor thereto, may have arising from or relating to (i) the transfer of land or natural resources to the State or any other person or entity by the Tribe, or any actual or purported Member or part thereof, or predecessor or successor thereto, or (ii) the occupation, use, or possession of, or extraction or removal of natural resources from, any land so transferred, including without limitation, all treaty-based, common law, and statutory land claims and rights of the Tribe, or any actual or purported Member or part thereof, or predecessor or successor thereto, to all or any portion of the Stockbridge Claim Area, the Stockbridge-Munsee Ancestral Territory, Oneida Aboriginal Territory, Oneida Claim Area or any other land in the State of New York; provided, however that the Tribe's title to the Sullivan County Land and the 122 acres

referenced in Section IV(2)(c) of this Agreement shall not be extinguished or affected by the provisions of this subsection;

g. extinguishment of any and all claims that the New York Oneidas, Wisconsin Oneidas, Brothertown Indians or Oneida of the Thames, or the United States on behalf of one or more of such tribes, nations, bands or groups, or any actual or purported Member or part thereof, or predecessor or successor thereto, may have to any land or natural resources or reservation in the State of New York, and any and all claims that such tribes, nations, bands or groups, or the United States on behalf of one or more of such tribes, nations, bands or groups, or any actual or purported Member or part thereof, or predecessor or successor thereto, may have arising from or relating to (i) the transfer of land or natural resources to the State or any other person or entity by such a tribe, nation, band or group, or any actual or purported Member or part thereof, or predecessor or successor thereto, or (ii) the occupation, use or possession of, or extraction or removal of natural resources from, any land so transferred, including without limitation, all treaty-based, common law, and statutory land claims and rights of one or more of such tribes, nations or groups, or any actual or purported Member or part thereof, or predecessor or successor thereto, to all or any portion of the Oneida Claim Area, Oneida Aboriginal Territory, Stockbridge Claim Area or Stockbridge-Munsee Ancestral Territory or any other land in the State of New York;

h. extinguishment of any and all claims that any Indian tribe, nation, band or group other than the New York Oneidas, Wisconsin Oneidas,

Brothertown Indians or Oneida of the Thames, or the United States on behalf of one or more of such tribes, nations, bands or groups, or any actual or purported Member or part thereof, or predecessor or successor thereto, may have to any land or natural resources or reservation in the Oneida Claim Area, Stockbridge Claim Area, Stockbridge-Munsee Ancestral Territory or Oneida Aboriginal Territory, and any and all claims that such tribes, nations, bands or groups, or the United States on behalf of one or more of such tribes, nations, bands or groups, or any actual or purported Member or part thereof, or predecessor or successor thereto, may have arising from or relating to (i) the transfer of land or natural resources within the Oneida Claim Area, Stockbridge Claim Area, Stockbridge-Munsee Ancestral Territory or Oneida Aboriginal Territory to the State or any other person or entity by such tribe, nation, band or group, or any actual or purported Member or part thereof, or predecessor or successor thereto, or (ii) the occupation, use or possession of, or extraction or removal of natural resources from, any land so transferred, including without limitation, all treaty-based, common law, and statutory land claims and rights of one or more of such tribes, nations, bands or groups, or any actual or purported Member or part thereof, or predecessor or successor thereto, to all or any portion of the Oneida Claim Area, Stockbridge Claim Area, Stockbridge-Munsee Ancestral Territory or Oneida Aboriginal Territory;

i. a declaration that the United States is barred from asserting any claim described in subsection A(3)(f), (g) or (h) of this Section II on behalf of any of the Indian nations, tribes, bands or groups referenced therein;

j. Congress' declaration that the Federal Settlement Legislation is enacted by Congress in the exercise of its trust responsibility to the Tribe, Wisconsin Oneidas and the New York Oneidas and provides settlement benefits that constitute just compensation for those parties, and express provision substituting the Tribe and the Wisconsin Oneidas as defendants in lieu of the United States in any action or proceeding for any claimed taking under the Fifth Amendment of the Constitution of the United States of interests in the Oneida Claim Area, Oneida Aboriginal Territory, Stockbridge Claim Area or Stockbridge-Munsee Ancestral Territory, or elsewhere in the State of New York asserted by the New York Oneidas, Brothertown Indians or Oneida of the Thames or any other Indian nation, tribe, band or group, or predecessor or successor thereto, arising under, out of, or with respect to the Federal Settlement Legislation, subject to the following provisions: 1) the aggregate monetary award in any such action or actions shall not exceed \$1.2 billion (inclusive of pre and post-judgment interest); 2) the value of the New York Oneidas entitlement in the Oneida Claim Area shall be limited to approximately 7% of the value thereof (as determined by application of the following formula: any recovery by the New York Oneidas shall be limited to an amount equal to the percentage of the total amount of the judgment that the population of the New York Oneidas bears to the combined populations of the Wisconsin Oneidas and the New York Oneidas), and no more than \$84 million (based on an Oneida Land Claim valuation of \$1.2 billion, inclusive of pre and post-judgment interest) as determined by Congress; 3) the Wisconsin Oneidas shall be liable for 30% of any liability to any recovering

tribe determined in any such action with respect to the Oneida Claim Area, and the Tribe shall be liable for 70% of any liability to any recovering tribe in any such action; 4) the value of benefits provided and/or approved by the Federal Settlement Legislation for the New York Oneidas or any recovering tribe shall be offset against any liability of the Tribe and the Wisconsin Oneidas in any such action; and 5) the amount recoverable by any Indian tribe, nation, band or group found to be entitled to participate in the judgment (the "recovering tribe") shall be limited to an amount equal to the percentage of the total amount of the judgment that the population of the recovering tribe bears to the combined populations of the Wisconsin Oneidas, New York Oneidas, and all other recovering tribes. Any such award may be paid out over a period not to exceed ten (10) years;

k. Congress' declaration that the Federal Settlement Legislation is enacted by Congress in the exercise of its trust responsibility to the Tribe and the New York Oneidas and provides settlement benefits that constitute just compensation for those parties, and express provision substituting the Tribe as defendant in lieu of the United States for any claimed taking under the Fifth Amendment of the Constitution of the United States of interests in the Stockbridge Claim Area asserted by the New York Oneidas, the Oneida of the Thames, the Brothertown Indians, or any other Indian nation, tribe, band or group, or predecessor or successor thereto, arising under the Federal Settlement Legislation, subject to the following provisions: 1) the aggregate monetary award in any such action or actions shall not exceed \$35 million (including pre and post-judgment interest) as determined by Congress; and 2) the value of benefits for the

New York Oneidas or any other recovering tribe provided and/or approved by the Federal Settlement Legislation shall be offset against any liability of the Tribe in any such action. Any such award may be paid out over a period not to exceed ten (10) years;

l. a waiver of tribal sovereign immunity for the limited and specific purposes provided for in this Agreement;

m. jurisdiction of the United States District Court for the Northern District of New York over actions arising under, relating to, or seeking to enforce this Agreement, as provided for in this Agreement and the Federal Settlement Legislation;

n. a declaration that the criminal and civil laws and jurisdiction of the State of New York shall apply within the Oneida Treaty Land and Sullivan County Land to the same extent as such criminal and civil laws and jurisdiction apply within Indian reservations under 25 U.S.C §§ 232 and 233;

o. a declaration that the Sullivan County Land shall be held by the United States of America in trust for the Tribe in the settlement of the Tribe's land claim which shall be considered land taken into trust as part of a settlement of a land claim within the meaning of 25 U.S.C. § 2719(b)(1)(B)(i) and land over which the Tribe exercises governmental powers within the meaning of 25 U.S.C. § 2703(4)(B); and

p. such other provisions relating to the Tribe that are consistent with this Agreement as Congress may deem appropriate.

4. The Tribe and the State negotiate and execute a tribal-state gaming compact, as referenced in Section V, below, which compact complies in all respects with the provisions and requirement of the New York State Constitution and New York law, including but not limited to, the requirements of Article 2, Section 12(b) of the Executive Law, New York Consolidated Laws;

5. The Tribe passes whatever tribal resolutions are necessary and complies with all other tribal governmental procedures necessary to effectuate the terms and provisions of this Agreement including, but not limited to, the waivers of tribal sovereign immunity made in this Agreement, and delivers copies of such resolutions and all other relevant mandates passed by the Tribe to the State and to the Secretary; and

6. The Secretary approves the gaming compact entered into between the State and the Tribe pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§2701-2721, and referenced in Section V of this Agreement.

B. This Agreement shall terminate, and the Parties shall have no further obligation to one another, in the event that the actions required under each of subsections A(1) through A(6) of this Section, have not been performed and completed by September 1, 2005; provided, however, that such deadline may be extended by the mutual written consent of the Parties. In the event the above conditions are not met and this Agreement does not become effective, all statements and agreements contained herein, all technical reports exchanged by the Parties, and all negotiations conducted by them are in strict confidence and will not be admissible or used in any way against any of the parties to this Agreement in any judicial, administrative, or arbitration proceeding.

III. AMENDMENT OF THIS AGREEMENT

A. At any time prior to enactment of the Federal Settlement Legislation and the State Settlement Legislation, the Parties may agree to amend this Agreement by mutual written consent signed by each and all of the Parties.

B. Following enactment of the Federal Settlement Legislation and the State Settlement Legislation, the Parties may amend this Agreement by mutual written consent signed by each and all of the Parties for purposes of making technical corrections only.

IV. PRINCIPAL SETTLEMENT TERMS

The parties agree that the New York Land Claim shall be resolved by a Congressional extinguishment of claims based on aboriginal, reserved or recognized Indian title in return for the transfer of land to the Tribe according to the following terms:

A. Land. The State agrees to the establishment of two categories of land in New York for the benefit of the Tribe: 1) Historic Preservation Land; and 2) Indian country comprised of the Settlement Land and the Additional Land (collectively, the Sullivan County Land).

(1) Historic Preservation Land. Preservation of Stockbridge-Munsee history and culture in New York is a primary goal of the Tribe and one that requires the cooperation and participation of the State. The State agrees to cooperate with the Tribe in protecting Historical Sites in New York, both documented and undiscovered sites, as follows:

(a) Places of Historic Significance. The State agrees that on all State-owned land where a Mohican burial site or cemetery is located, the State Office of Parks, Recreation and Historic

Preservation may, within its sole discretion and following consultation with any other interested state agency, designate such sites as “places of historic significance” pursuant to the terms of Indian Law Section 12-a.

(b) Reburials of Repatriated Remains. The State will, consistent with terms upon which the Parties shall mutually agree, set aside land in at least one State Park having Mohican Historic Sites for the reburials of tribally repatriated remains. The repatriation lands will be designated by the State as “places of historic significance” pursuant to the terms of Indian Law Section 12-a and Parks and Recreation Law Section 3.09.

(c) Tribal Transfers to State Office of Parks, Recreation and Historic Preservation. The State may, from time to time, accept into the State Park System, lands from the Tribe containing Historical Sites. The State will hold and administer these cultural and historically significant lands within the State Park system as it holds and administers its other historic sites. The State shall provide notice to and consult with the Tribe prior to any undertakings that could impact these lands. Where such lands contain burials or cemeteries, the State shall declare the lands “places of historic significance” pursuant to the Indian Law Section 12-a.

(d) Tribal Historic Preservation Office. The Parties shall negotiate a Memorandum of Agreement in good faith to provide functional workspace at Peebles Island State Park for the Tribe's historic preservation activities. The Agreement shall be predicated upon the currently existing availability of space, resources, and access at Peebles Island State Park, with no requirement of a capital investment upon the part of the state. Agreed upon space shall be provided rent free; however, payment for utilities, resources, and other services shall be the responsibility of the Tribe.

(e) Notice and Opportunity to Consult. Because the State Historic Preservation law at the time of execution of this Agreement does not provide notice or the opportunity for tribal consultation related to undertakings, particularly ground disturbing activities that might impact significant Historical Sites, the parties hereby agree as follows (for purposes of this section, "undertaking" shall mean excavation and/or construction done by or on behalf of the State):

(i) Significant Historic Sites on State-owned land. When there is an undertaking on State-owned land and the Office of Parks, Recreation and Historic Preservation has identified such land as a significant historic site within the Stockbridge-Munsee Ancestral Territory, the State will provide notice to the Tribe prior to beginning the project and allow the Tribe an opportunity to consult regarding

potential mitigation measures. When an inadvertent discovery of an Indian habitation site, Indian remains, burials and or artifacts occurs on State-owned land located within the Stockbridge-Munsee Ancestral Territory, the State will promptly contact the Tribe and allow the Tribe an opportunity to consult regarding potential mitigation measures. In cases where artifacts are discovered and given to the State Museum, the State agrees to use its best efforts to facilitate a loan of such artifacts to the Tribe.

(ii) Significant Historic Sites on Private Lands. When there is a State undertaking on privately owned land and the Office of Parks, Recreation and Historic Preservation has identified such land as a significant historic site within the Stockbridge-Munsee Ancestral Territory, the State will provide notice to the Tribe prior to beginning the project and allow the Tribe an opportunity to consult regarding potential mitigation measures. When an inadvertent discovery of an Indian habitation site, Indian remains, burials and or artifacts occurs on privately owned located within the Stockbridge-Munsee Ancestral Territory during a State undertaking, the State will promptly contact the Tribe and allow the Tribe an opportunity to consult regarding mitigation measures.

(f) Future Legislation. The State and Tribe shall jointly seek appropriate state legislation to protect unmarked burial sites, human remains and funerary objects.

(2) Sullivan County Land.

(a) Settlement Land. The Federal Settlement Legislation shall provide that, notwithstanding any other provision of law or regulation, and for all purposes under the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq., as amended, on its effective date the Settlement Land shall be considered Indian lands of the Tribe within the meaning of 25 U.S.C. § 2703(4) of the Indian Gaming Regulatory Act and the Federal Settlement Legislation shall declare the Settlement Land to be subject to federal restrictions against alienation and Indian country under 18 U.S.C. §1151. The Secretary or Tribe may erect permanent improvements of a substantial value, or any improvements authorized by law on such land. The Secretary shall, upon the Tribe's offer to convey title, accept title and hold the Settlement Land in trust for the benefit of the Tribe.

(b) Additional Land. In addition to the Settlement Land, the Tribe may acquire up to 180 acres of land contiguous to the Settlement Land. The Federal Settlement Legislation shall provide that:

