

**AGREEMENT OF SETTLEMENT AND COMPROMISE
TO RESOLVE THE ONEIDA INDIAN 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 *Oneida Indian Nation of New York v. State of New York, et al.*, Docket No. 74-CV-187 ("Oneida Land Claim"), and any other claim described in Sections II(A)(3)(e), (f) and (g) of this Agreement. It is the intent of the parties that this Agreement shall form the basis for the enactment of Federal and State legislation that will justly resolve, with finality and permanence, all claims of Indian tribes, nations, bands and groups described in Section II(A)(3)(e) and (f) 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 complaints filed in the Oneida Land Claim or the amended complaint filed in the *Stockbridge-Munsee Community v. State of New York, et al.*, pending in the United States District Court for the Northern District of New York, Docket No. 86-CV-1140, 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 described in Section II(A)(3)(g) 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 Oneida Tribe of Indians of Wisconsin (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 the United States recognizes as a successor in interest to the historic Oneida Indian Nation (the "Oneidas") which for centuries prior to the American Revolution occupied lands in what is now central New York State;

WHEREAS, during the Revolutionary War, the Oneidas allied with the American colonists against the British army;

WHEREAS, in 1788, the State of New York and the Oneidas entered into the Treaty of Fort Schuyler which provided for the cession of Oneida lands to the State and set aside an area comprising approximately 250,000 acres for the use of the Oneidas ("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) (together with later amendments and reenactments, the "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 for the Oneidas 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 (“Treaty of Canandaigua”);

WHEREAS, in the late eighteenth and early nineteenth centuries, the State entered into a series of approximately 26 land purchase agreements with the Oneidas as a result of which the vast majority of land within the Oneida Claim Area had been transferred to the State;

WHEREAS, following the transfers of land from the Oneidas to the State, the State conveyed those lands within what are now the counties of Oneida and Madison (“Counties”) to private purchasers through a series of transactions over a number of years;

WHEREAS, in 1974, the Tribe and the New York Oneidas filed an action in which the United States, the Oneida of the Thames and the Brothertown Indian Nation of New York later intervened alleging that the aforementioned purchase agreements violated the federal ITIA and were, therefore, invalid and that the tribal plaintiffs had a

current possessory interest in the lands that were the subject of such purchase agreements and seeking, among other relief, damages for the loss of use and possession of the land from the time of the challenged transactions to date (the "Oneida Land Claim");

WHEREAS, the Oneida 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 in the Oneida Land Claim and any other claims of the Tribe and other Oneida nations, tribes, bands or groups with respect to any other land in New York and that the Oneida 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. "Attorney General" means the Attorney General of the United States.
- B. "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.
- C. "Class II Gaming" means gaming as defined in 25 U.S.C. §2703(7).

- D. "Class III Gaming" means gaming as defined in 25 U.S.C. §2703(8).
- E. "Federal Settlement Legislation" means the act of Congress enacted to implement and effect the terms, provisions, and conditions of this Agreement.
- F. "Footprint Land" means an area of land not to exceed 1,000 acres within the Oneida Aboriginal Territory but outside the Oneida Claim Area to be conveyed by the State to the Tribe. Such land shall be used by the Tribe for ceremonial, cultural and religious purposes and shall not be used by the Tribe for governmental, commercial or gaming activity.
- G. "Member" means individuals who are or were bona fide or actual Members of the Tribe and includes descendants of Members.
- H. "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.
- I. "New York Oneidas" means the Oneida Indian Nation of New York, a federally recognized Indian tribe.
- J. "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.
- K. "Oneida Claim Area" means that portion of the set-aside area referenced in the second paragraph of the 1788 Treaty of Fort Schuyler and in Article II of the 1794 Treaty of Canandaigua that is the subject of the Oneida Land Claim.

L. "Oneida Land Claim" means the claim of the Tribe, 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.

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

N. "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 paragraph (W) of this section.

O. "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.

- P. "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.
- Q. "Stockbridge Land Claim" means the Stockbridge-Munsee Tribe's claim to land and natural resources (and damages related thereto) within the six-mile-square area ("Stockbridge Claim Area") located in Madison and Oneida Counties, New York that is the subject of the Stockbridge-Munsee 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, et al.*, docketed as 86-CV-1140.
- R. "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, and any other area in what is now New York, over which the Stockbridge-Munsee 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.
- S. "Stockbridge-Munsee Tribe" means the Stockbridge-Munsee Community, Band of Mohican Indians, a federally-recognized Indian tribe.
- T. "Sullivan County Land" means a tract of up to 400 acres of land, more or less, in Sullivan County, New York, agreed to by the Tribe and Governor, and acquired or to be acquired by the Tribe for the purpose of conducting Class III

gaming and commercial activities traditionally associated with the operation or conduct of a casino facility, which tract shall be held in trust by the United States for the benefit of the Tribe.

U. "Transfer" means any transaction, including, without limitation, the 26 late eighteenth and early nineteenth century land purchase agreements at issue in the Oneida Land Claim, involving, or the purpose of which was to effect a change in possession of, title to, dominion over, or control of any land or natural resource, 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.

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

W. "Video Lottery Gaming Devices" (VLTs) 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. The compact referenced in Section V of this Agreement shall reflect the parties' understanding that there are consumer perception and market differences between VLT's and Slot Machines.

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, which effectiveness and date thereof to be noticed by publication in the Federal Register by the Secretary:

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; (b) increase from three to five the number of authorized Class III gaming facilities in the counties of Sullivan and Ulster ("State Settlement Legislation"); and (c) provide that, on or after the date that both this Agreement and a land claim settlement agreement between the State and the Stockbridge-Munsee Tribe become effective, the Governor shall be authorized to execute an amendment to the tribal state compact executed by the New York Oneidas and the Governor of New York as approved by the Department of the Interior on June 4, 1993, and published in the Federal Register on June 15, 1993, ("1993 Compact"), provided, however, that such Amendment contains the following provisions: (1) the New York Oneidas shall be authorized to install and operate slot machines, and shall install and operate on a continuous basis no less than one thousand slot machines beginning no later than one year after the Governor's certification as set forth below; (2) the State shall

agree that the New York Oneidas shall enjoy Indian exclusivity with regard to the installation and operation of, and no other person or entity other than an Indian nation or tribe shall be permitted to install or operate, slot machines within the specified geographic area; (3) in the event that the State were to breach the aforementioned exclusivity with the New York Oneidas, then the New York Oneidas' revenue share obligations, as set forth below, shall no longer apply; (4) in exchange and consideration for this exclusive franchise, the New York Oneidas shall contribute to the State a specified portion of the proceeds from slot machines, based on the net drop of such machines (money dropped into machines, after payout but before expense). Upon the Governor's certification to the Temporary President of the Senate, the Speaker of the Assembly, and the Secretary of State, that such Amendment has been approved or deemed approved by the Secretary of the Interior, the 1993 Compact, as amended, shall be deemed ratified, validated and confirmed nunc pro tunc by the legislature;

3. The United States Congress enacts and the President signs a legislative act which implements and conforms to the 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, New York Oneidas, Stockbridge-Munsee Tribe, Brothertown Indians or Oneida of the Thames, or any other Indian tribe, nation, band or group, or any actual or purported Member or part thereof, or predecessor or successor thereto, in the Oneida Aboriginal Territory, Oneida Claim Area, Stockbridge

Claim Area or Stockbridge-Munsee Ancestral Territory including, without limitation, the land transfers at issue in the Oneida Land Claim and Stockbridge 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, including without limitation the ITIA, and treaties, including without limitation the Treaty of Canandaigua, of the United States;

c. the disestablishment of any reservation of the Tribe, New York Oneidas, Stockbridge-Munsee Tribe, 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.

d. 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 (“existing parcels”); 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;

e. 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 resource 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 resource to the State or any other person entity by the Tribe, or any actual or purported Member or part thereof, or predecessor or successor thereto, or (ii) the occupation, use, possession of, or the removal or extraction 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 any 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 the Oneida Aboriginal Territory or any other land in New York State, provided that the right and title

of the Tribe in the Footprint Land and Sullivan County Land acquired pursuant to subsections (A)(1) and (A)(2) of Section IV of this Agreement shall not be extinguished or effected by this provision;

f. extinguishment of any and all claims that the New York Oneidas, the Stockbridge-Munsee Tribe, Brothertown Indian Nation 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 resource 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 resource 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 the removal or extraction 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 land in the State of New York.

g. extinguishment of any and all claims that any Indian tribe, nation, band or group other than the New York Oneidas, the Stockbridge-Munsee Tribe, Brothertown Indian Nation 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 resource 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 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 the removal or extraction 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, Stockbridge Claim Area, Stockbridge-Munsee Ancestral Territory or Oneida Aboriginal Territory.

h. declaration that the Federal Settlement Legislation is enacted by Congress in the exercise of its trust responsibility to the Tribe, Stockbridge-Munsee Tribe and the New York Oneidas and provides settlement benefits that constitute just compensation for those parties, and express provision substituting the Tribe and the Stockbridge-Munsee Tribe 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 any actual or purported Member or part thereof, or predecessor or successor thereto, arising under, out of, or with respect to, the Federal Settlement Legislation, subject to the following provisions: 1) 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 Tribe and the New York Oneidas), or no more than \$84 million (based on an Oneida Land Claim valuation of \$1.2 billion) as determined by Congress; 2) the Tribe shall be liable for 30% of any liability to the recovering tribe determined in any such action with respect to the Oneida Claim Area or any mutually acceptable settlement, and the Stockbridge-Munsee Tribe shall be liable for 70% of any liability to the recovering tribe in any such action or any mutually acceptable settlement; 3) 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 Stockbridge-Munsee Tribe in any such action; and 4) 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 Tribe, New York Oneidas, and all other

3. Other New York Land Owned by the Tribe. The Federal Settlement Legislation shall provide that any lands other than, Sullivan County Land (and as to restrictions against alienation only, the Footprint Land) that are located within the State of New York and owned and possessed by the Tribe shall, on the effective date of the Federal Settlement Legislation, be freely alienable by the Tribe, all restrictions on alienation applicable to the Tribe arising under federal law that may have been applicable to such lands shall be lifted and removed, and any Indian country or reservation status of such lands arising out of aboriginal, reserved or recognized title of any other form of Indian title or right of the Tribe or any other Indian tribe or nation shall be extinguished.

B. Extinguishment of the Land Claims.

(1) In consideration of the benefits provided pursuant to this Agreement and the Federal and State Settlement Legislation, the Tribe agrees that the Federal Settlement Legislation shall extinguish all Oneida Indian claims to land in Madison and Oneida Counties, and all damages with respect thereto, asserted in the Oneida Land Claim and further agrees to dismiss with prejudice its lawsuit (Docket No. 74-CV-187 in the United States District Court for the Northern District of New York) and related litigation between the parties within the 10-day period following the effective date of this Agreement. The Tribe and State agree to move for a dismissal with prejudice of the Oneida Land Claim and any related Oneida land claim litigation promptly upon enactment of the Federal Settlement Legislation.

(2) In consideration of the benefits provided under the Federal and State Settlement Legislation and this Agreement, the Tribe agrees to release and relinquish for itself and any actual or purported Member or part thereof, or predecessor or

recovering tribes. Any such award may be paid out over a period not to exceed ten (10) years.

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

j. 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;

k. 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;

l. 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);

m. a provision that land consisting of 10,755 acres, currently held in fee by the Tribe located within the Oneida Reservation, Wisconsin, established in the Treaty of February 3, 1838, 7 Stat. 566, and subject to services agreements with local governmental authorities shall be declared to be held in trust for the Tribe by the United States of America, and the Secretary of the Interior shall be directed to acquire within the same reservation up to 65,400 acres in trust upon application for such by the Tribe, so long as service agreements with all local governmental authorities remain in force;

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; and

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

4. The Tribe and the State shall by December 31, 2004, negotiate and execute a tribal-state gaming compact, as referenced in Section V below and submit such compact for Secretarial approval, 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, and which will be subject to enacting of the Federal Settlement Legislation and the Secretary taking the Sullivan County Land into trust;

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 and; provided further that the Parties agree to use best efforts to obtain the Federal Settlement Legislation by March 1, 2005. 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 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) the Footprint Land as the Tribe's ceremonial homeland and 2) the Sullivan County Land.

1. Footprint Land. The Federal Settlement Legislation shall provide that, notwithstanding any other provision of law or regulation, on its effective date, the Footprint Land conveyed by the State to the Tribe shall be inalienable and not subject to real property tax(es), but shall not be deemed Indian country within the meaning of 18 U.S.C. § 1151 and, except with respect to real property taxes, shall be subject to state and local law and governmental jurisdiction. Such land shall not be used for commercial or gaming activity nor considered Indian lands of the Tribe within the meaning of 25 U.S.C. § 2703(4) of the Indian Gaming Regulatory Act. The Tribe may erect permanent improvements of a substantial value, or any improvements authorized by law on such land. The Tribe shall not conduct any governmental activities on or from said lands.

2. Sullivan County 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 and, in the event the Tribe has not yet acquired the Sullivan County Land, immediately after acquisition, the Sullivan County 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 Sullivan County 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 Federal Settlement Legislation shall further provide that the Sullivan County Land shall be held in trust by the United States in trust for the benefit of the Tribe.

3. Other New York Land Owned by the Tribe. The Federal Settlement Legislation shall provide that any lands other than, Sullivan County Land (and as to restrictions against alienation only, the Footprint Land) that are located within the State of New York and owned and possessed by the Tribe shall, on the effective date of the Federal Settlement Legislation, be freely alienable by the Tribe, all restrictions on alienation applicable to the Tribe arising under federal law that may have been applicable to such lands shall be lifted and removed, and any Indian country or reservation status of such lands arising out of aboriginal, reserved or recognized title of any other form of Indian title or right of the Tribe or any other Indian tribe or nation shall be extinguished.

B. Extinguishment of the Land Claims.

(1) In consideration of the benefits provided pursuant to this Agreement and the Federal and State Settlement Legislation, the Tribe agrees that the Federal Settlement Legislation shall extinguish all Oneida Indian claims to land in Madison and Oneida Counties, and all damages with respect thereto, asserted in the Oneida Land Claim and further agrees to dismiss with prejudice its lawsuit (Docket No. 74-CV-187 in the United States District Court for the Northern District of New York) and related litigation between the parties within the 10-day period following the effective date of this Agreement. The Tribe and State agree to move for a dismissal with prejudice of the Oneida Land Claim and any related Oneida land claim litigation promptly upon enactment of the Federal Settlement Legislation.

(2) In consideration of the benefits provided under the Federal and State Settlement Legislation and this Agreement, the Tribe agrees to release and relinquish for itself and any actual or purported Member or part thereof, or predecessor or