

# **Tsikaristisere/Dundee Claim Settlement Agreement Plain Language Comments**

This document is meant to provide plain language comments to help understand the terms and conditions of the Tsikaristisere/Dundee Claim Settlement Agreement.

The Mohawk Council of Akwesasne is bringing the Mohawks of Akwesasne Tsikaristisere/Dundee Claim Settlement Agreement to the community for approval in a referendum. This Settlement Agreement is an offer from Canada and will only be signed if the community has given approval. This summary is not intended to be a comprehensive guide of the settlement agreement.

If you have any questions relating to the terms of the settlement agreement, or would like a copy of the full settlement agreement document, contact the Aboriginal Rights & Research Office at 613-575-2348.

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*Note: Blue font is being used to help simplify the agreement. On the far left margin it's a plain language comments that explain the wording in the agreement, also highlighted in blue.*

**MOHAWKS OF AKWESASNE  
TSIKARISTISERE/DUNDEE CLAIM  
SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT

BETWEEN:

**The Mohawks of Akwesasne**, a “band” within the meaning of *the Indian Act*, as represented by the Mohawk Council of Akwesasne

(hereinafter called the “Mohawks of Akwesasne”)

AND:

**Her Majesty the Queen in Right of Canada**, as represented by the Minister of Indian Affairs and Northern Development

(hereinafter called “Canada”)

**PREAMBLE**

**WHEREAS:**

This is Akwesasne’s “claim” that is subject to the terms and conditions of this Settlement Agreement.

- A. In 1981 (and revised in 1998), the Mohawks of Akwesasne submitted the Tsikaristisere/Dundee Claim under Canada’s Specific Claims Policy, **alleging, among other things, that: the February 16, 1888 surrender was invalid; all leasing prior to February 16, 1888 of the lands covered by the February 16, 1888 surrender was illegal; and Canada breached its fiduciary obligations with respect to these matters;**
- B. By letter dated March 10, 1988 (and December 20, 2002 for the revised claim), Canada accepted the Tsikaristisere/Dundee Claim for negotiation under the Specific Claims Policy; and
- C. Canada and the Mohawks of Akwesasne have negotiated terms of settlement as contained in this Settlement Agreement in order to achieve a full, fair and final settlement of the Tsikaristisere/Dundee Claim.

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS SETTLEMENT AGREEMENT CANADA AND THE MOHAWKS OF AKWESASNE AGREE AS FOLLOWS:**

Canada’s “ATR/RCP” policy was revised by Canada in 2016 in an attempt to expedite the process and is how lands will be returned to reserve status. Future comment references are to ‘Additions to Reserve Policy’.

**1.0 DEFINITIONS AND SCHEDULES**

1.1 In this Settlement Agreement:

- (a) **“1888 Surrender”** means the surrender in 1888 by instrument dated the 16<sup>th</sup> day of February, 1888 of the Dundee Lands;
- (b) **“Additions to Reserve/Reserve Creation Policy”** means the Department’s policy and procedural guidelines in effect at the time of and pertaining to a First Nation’s application for the granting of reserve status to land;

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(c) Article 5.0 is a limit of 18,282 acres to be set aside in either Ontario or Quebec under this agreement.

(d) Determined by the Akwesasne Membership Code.

(e) Accept terms and conditions of this agreement and direct/authorize Council to execute and implement the agreement.

(g) Federal Court File No. T-314-02 (the "Dundee Litigation").

(g) Definition is extensive and meant to cover all claims the Mohawks of Akwesasne could have in relation to the Dundee Lands – past, present and future.

- (c) **“Acquired Land”** means, for any one application to have lands set aside as reserve under this Settlement Agreement, one or more parcels of land within either the Ontario Selection Area or the Québec Selection Area, the acreage of which is, taking the aggregate of all lands set aside or in the process of being set aside under this Agreement, not in excess of the limits stipulated in Article 5.0;
- (d) **“Akwesasne Membership Roll”** means a list of persons’ names that is maintained under sections 8 and 10 of the *Indian Act* by the Mohawks of Akwesasne;
- (e) **“Ballot Question”** means the question asked of the Voters in a Referendum as set out in Schedule 1;
- (f) **“Canada”** means Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development;
- (g) **“Claim”** means all matters, issues, allegations, actions, causes of action, suits, claims, damages, losses or demands whatsoever, inclusive of costs, or any obligation or liability whatsoever, whether in law, equity or otherwise, which the Mohawks of Akwesasne ever had, now have or may have against Canada, known or unknown, contained in the submissions of the Mohawks of Akwesasne under the Specific Claims Policy or [the statement of claim in file T-314-02](#); and
- any liability, action, cause of action, suit, claim, damage, loss or demand whatsoever or any obligation or liability whatsoever, whether in law, equity or otherwise, which [the Mohawks of Akwesasne ever had, now have or may ever have against Canada, known or unknown, related to or arising or resulting from](#):
- i. all facts, matters and issues leading up to and for the creation of a reserve located in what is today known as the Township of Dundee in the Province of Québec for the Iroquois of St. Regis Indians, today known as the Mohawks of Akwesasne;
  - ii. any claim that the Mohawks of Akwesasne may have that lands located on the east side of the eastern boundary line of the Township of Dundee were at any time a part of the said reserve for the Iroquois of St. Regis Indians, today known as the Mohawks of Akwesasne;
  - iii. any and all use and occupation of the Dundee Lands by third parties at any and all times prior to the Effective Date of this Settlement Agreement;
  - iv. any and all flooding of the Dundee Lands prior to February 16, 1888, and of lands contiguous to the lands known as Sugarbush Island, described in Schedule 2;
  - v. any and all leasing of the Dundee Lands prior to February 16, 1888;
  - vi. the 1888 Surrender and any variation made thereto, including their validity;

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- vii. the implementation of the 1888 Surrender and any variation or amendment made thereto, including the administration and management of the surrender proceeds; or
- viii. any and all fiduciary obligations of Canada in relation to:
  - 1) the creation of the said reserve for the Iroquois of St. Regis Indians, today known as the Mohawks of Akwesasne, including the location of the eastern boundary line of the Township of Dundee and any corresponding non-inclusion of land in the reserve;
  - 2) any and all use and occupation of the Dundee Lands by third parties at any and all times prior to the Effective Date of this Settlement Agreement;
  - 3) any and all flooding of the Dundee Lands prior to February 16, 1888, and of lands contiguous to the lands known as Sugarbush Island, described in Schedule 2;
  - 4) any and all leasing of the Dundee Lands prior to February 16, 1888;
  - 5) the 1888 Surrender and any variation made thereto; and
  - 6) the implementation of the 1888 Surrender and any variation made thereto, including the administration and management of the surrender proceeds.

(h) Total offered:  
\$239,808,436.

(h) **“Compensation”** means the amount agreed upon by the Parties as compensation for the Claim as set out in Article 2.1;

(i) Total estimated  
balance after costs:  
\$236,855,786.

(i) **“Compensation Balance”** means the Compensation to be paid by Canada to the Mohawks of Akwesasne after deduction of the Negotiation Loan Funding as set out in Article 2.2;

(j) **“Department”** means the Department of Indian Affairs and Northern Development, as established pursuant to the *Department of Indian Affairs and Northern Development Act*, R.S.C., 1985, c. I-6;

(k) Required before  
agreement is  
executed.

(k) **“Direction to Pay”** means the document by which the Mohawk Council of Akwesasne directs Canada to deposit the Compensation Balance in accordance with Article 2.0, as set out in Schedule 5;

(l) Kawehno:ke  
(Cornwall Island),  
Kana:takon  
(St. Regis, and  
Tsi Snaihne (Snye)

(l) **“District”** shall have the meaning ascribed to that term in the Tsikaristisere/Dundee Claim Settlement Agreement Special Referendum Regulation;

(m) **“Dundee Lands”** means those lands described in Schedule 2 that had been part of the said reserve for the Iroquois of St. Regis Indians, today known as the Mohawks of Akwesasne, and include those contiguous lands submerged as a results of flooding prior to 1888 and any other lands claimed or alleged to have been part of the reserve on the east side of the eastern boundary line of the Township of Dundee;

(n) **“Effective Date”** means the date on which this Settlement Agreement is executed by Canada in accordance with Article 12.0;

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(o) Council is working with the Financial Advisor Proteus Investment Consulting.

- (o) **“Financial Advisor”** means an individual who or a firm that:
- i. Has or employs individuals who have a Chartered Financial Analyst designation;
  - ii. is engaged in the business of providing independent financial advice including advice on the management of investment portfolios; and
  - iii. does not either directly or through an associated or subsidiary entity sell or provide investment products of any kind.
- (p) **“Financial Institution”** means any bank or trust company that is authorized by law to accept deposits and which is supervised and regulated by the Superintendent of Financial Institutions as defined in the *Office of Superintendent of Financial Institutions Act*, R.S.C. 1985, c. I-8 (3<sup>rd</sup> Supp);
- (q) **“Indian Act”** means the *Indian Act*, R.S.C. 1985, c. I-5 as amended and its regulations;

(r) Four Held:  
9/19 – Tsi Snaihne  
9/20 – Kawehno:ke  
9/21 – Kana:takon  
9/22 – Southern  
Portion of  
Akwesasne

- (r) **“Information Meeting”** means a meeting at which legal counsel and a Financial Advisor retained by the Mohawks of Akwesasne, and any other persons as requested by the Mohawk Council of Akwesasne, will explain to all Members in attendance the nature and effect of this Settlement Agreement and the management and use of the Compensation Balance by the Mohawk Council of Akwesasne until the transfer of the Compensation Balance by the Mohawk Council of Akwesasne to an entity or entities as described in Article 3.0;

(s) Member under Akwesasne Membership Code.

- (s) **“Member”** means a person whose name appears or who is entitled to have their name appear on the Akwesasne Membership Roll;
- (t) **“Minister”** means the Minister of Indian Affairs and Northern Development or the Minister’s duly authorized representative;
- (u) **“Mohawk Council of Akwesasne”** means the council of the Mohawks of Akwesasne, which is a “council of the band” within the meaning of the *Indian Act*;
- (v) **“Mohawk Council Resolution”** means a written resolution of the Mohawk Council of Akwesasne adopted by a majority of the Mohawk Council of Akwesasne at a duly convened meeting;
- (w) **“Mohawks of Akwesasne”** means the Mohawks of Akwesasne, a “band” within the meaning of the *Indian Act* as represented by the Mohawk Council of Akwesasne;

(x) Advance on ratification costs of \$195,311.

- (x) **“Negotiation Costs”** means any and all costs incurred by the Mohawks of Akwesasne for research, preparation, negotiation and settlement of the Claim, and conducting the [Referendum](#), including legal fees;

(y) Negotiation Costs to date: \$2,757,339 – loan must be repaid regardless of voting outcome (e.g. ‘yes’ or ‘no’).

- (y) **“Negotiation Loan Funding”** means the total amount of loan funding already provided to the Mohawks of Akwesasne by Canada for the purpose of negotiating and settling this Claim;

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- (z) & (aa) 'Selection Area' shows the location where lands can be returned to reserve status following *Additions to Reserve Policy*, up to a maximum of 18,202 acres of land.
- (z) **"Ontario Selection Area"** means the Three United Counties of Stormont, Dundas and Glengarry, and that part of the City of Cornwall, all within the Province of Ontario, as depicted in Schedule 3;
- (aa) **"Québec Selection Area"** means the Regional County of Le Haut-Saint-Laurent in the Province of Québec, as depicted in Schedule 4;
- (bb) **"Party"** means either the Mohawks of Akwesasne or Canada;
- (cc) **"Person"** means any individual, proprietor, corporation, partner, partnership, trust, joint venture, unincorporated organization, First Nation, self-governing First Nation, Indian band, Aboriginal group, union, or government body, including, without limitation, any past, present or future Members and each of their respective heirs, descendants, legal representatives, successors and assigns;
- (dd) **"Proceeding"** means any legal proceeding, action, cause of action, suit, claim, specific claim or demand whatsoever, known or unknown, whether in law, in equity or otherwise;
- (ee) How community can approve/reject this Settlement Agreement.
- (ee) **"Referendum"** means the referendum referred to in Article 10.0 on the Ballot Question conducted in accordance with the Tsikaristisere/Dundee Claim Settlement Agreement Special Referendum Regulation;
- (ff) **"Settlement Agreement"** means this settlement agreement including the attached Schedules;
- (gg) **"Specific Claims Policy"** means Canada's policy on specific claims in effect from time to time;
- (hh) Process used by the Chief Referendum Officer to run the referendum
- (hh) **"Tsikaristisere/Dundee Claim Settlement Agreement Special Referendum Regulation"** means the regulation governing the conduct of the Referendum as contained in Schedule 10 and adopted by the Mohawk Council of Akwesasne; and
- (ii) Members' 18-years old by December 8, 2018. Must be on the voters list to vote.
- (ii) **"Voter"** means "Eligible Referendum Voter" as that term is defined in the Tsikaristisere/Dundee Claim Settlement Agreement Special Referendum Regulation.
- 1.2 Except as otherwise defined in this Settlement Agreement, any words used in this Settlement Agreement that are defined in the *Indian Act* have the same meaning as they have in the *Indian Act*.
- 1.3 The following Schedules are attached to and form part of this Settlement Agreement:
- Schedule 1 – Ballot Questions
- Schedule 2 – Description & Reference Map of Dundee Lands
- Schedule 3 – Reference Map of Ontario Selection Area
- Schedule 4 – Reference Map of Québec Selection Area
- Schedule 5 – Form of Mohawk Council Resolution for Payment & Direction to Pay
- Schedule 6 – Authorized Investments
- Schedule 7 – Certificate of Legal Advice
- Schedule 8 – Financial Advisor's Certificate
- Schedule 9 – Form of Mohawk Council Resolution
- Schedule 10 – Tsikaristisere/Dundee Claim Settlement Agreement Special Referendum Regulation
- Schedule 2-4 outline lands being discussed.
- Schedules 5-9 are the documents needed to "execute" or sign the final Settlement Agreement.

Compensation amount was increased anticipating Negotiation Costs of Akwesasne.

Final Compensation Balance will be calculated after total costs of referendum are processed.

Approval is by referendum.

After Canada and Grand Chief sign.

Indian Act s. 61-69 deals with 'Indian moneys' and requires approval of the Governor in Council to use the money. This statement means that this requirement does not apply to settlement money.

Establishes a process to use settlement money.

Primary priority of using settlement money is to purchase land.

Council agrees to consult members in how the Compensation Balance will be managed and used.

## 2.0 COMPENSATION

- 2.1 Subject to the terms and conditions set out in this Settlement Agreement, Canada agrees to pay to the Mohawks of Akwesasne and the Mohawks of Akwesasne agree to accept two hundred and thirty-nine million, eight hundred and eight thousand, four hundred and thirty-six dollars (\$239,808,436) in full and final settlement of the Claim, [including the Negotiation Costs](#).
- 2.2 The Mohawks of Akwesasne authorize and direct Canada to deduct from the Compensation referred to in Article 2.1 the Negotiation Loan Funding to satisfy the full and final repayment of the Negotiation Loan Funding of the Mohawks of Akwesasne.
- 2.3 The Mohawks of Akwesasne authorize and direct Canada to pay the [Compensation Balance](#) in accordance with the Direction to Pay.
- 2.4 If the [Mohawks of Akwesasne approve the Settlement Agreement as set out in Article 10.0](#), then the Mohawks of Akwesasne shall provide Canada with an irrevocable Direction to Pay and a Mohawk Council Resolution for Payment, substantially in the form attached as Schedule 5, together with any other documentation required by Canada for purposes of depositing funds.
- 2.5 Canada agrees to pay and transfer the Compensation Balance within forty-five (45) days of the [Effective Date](#).
- 2.6 The Parties agree and intend that the Compensation is not "[Indian moneys](#)" within the meaning of the *Indian Act* and accordingly the provisions of the *Indian Act* with respect to the management of Indian moneys shall not apply to the Compensation.
- 2.7 The sole responsibility of Canada with respect to the Compensation Balance is to pay and deposit the Compensation Balance in accordance with Article 2.0 and, without limiting the generality of the foregoing and for greater certainty, nothing expressed in Article 3 shall engage any obligation, role, or responsibility on the part of Canada. In providing the compensation, Canada will rely solely on the Direction to Pay provided by the Mohawks of Akwesasne.

## 3.0 MANAGEMENT AND USE OF THE COMPENSATION BALANCE

- 3.1 The Compensation Balance will be used for the benefit of the Mohawks of Akwesasne.
- 3.2 A priority for the use of the Compensation Balance is the [purchase of land that will be Acquired Land to be set apart as reserve land of the Mohawks of Akwesasne pursuant to Article 5.0](#).
- 3.3 Other priorities for the benefit of the Mohawks of Akwesasne shall be established by the Mohawk Council of Akwesasne [after consultation with the Mohawks of Akwesasne and before the Compensation Balance](#) is transferred to any entity as per Article 3.4.



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After consultation Council can move settlement money to an approved entity (i.e. trust, limited partnership, other investment idea).

Priority is land purchase, then other benefits to the Mohawks of Akwesasne.

Settlement money has to be held in an investment until consultation happens. This could take up to 3-years.

Akwesasne agrees, acknowledges and confirms the 1888 surrender as valid.

Canada agrees to return to reserve status up to 18,282 acres bought by Akwesasne, using the *Additions to Reserve Policy*.

Relatively new term in this agreement is the ability to select land in both Ontario and Quebec to be returned to reserve status, and the land doesn't have to be attached to existing Akwesasne reserve.

- 3.4 After the Compensation Balance has been paid in accordance with Article 2.0, it will thereafter be transferred by the Mohawk Council of Akwesasne to one or more entities to manage and use the Compensation Balance for the benefit of the Mohawks of Akwesasne, after consultation with the Mohawks of Akwesasne.
- 3.5 An entity contemplated in Article 3.4 could be, but is not restricted to, a limited partnership or a trust.
- 3.6 An entity contemplated in Article 3.4 will adopt the principles and priorities enunciated in Article 3.0 for the use of the Compensation Balance subject to any change in such priorities established by the Mohawk Council of Akwesasne after consultation with the Mohawks of Akwesasne.
- 3.7 Until the Compensation Balance is transferred by the Mohawk Council of Akwesasne to an entity or entities pursuant to Articles 3.4, the Mohawk Council of Akwesasne, after consultation with a Financial Advisor, shall invest the Compensation Balance in authorized investments listed in Schedule 6 and shall not be permitted to otherwise invest, manage or use the Compensation Balance or any revenue derived therefrom.

### 4.0 ACKNOWLEDGMENT OF SURRENDER

- 4.1 The Mohawks of Akwesasne hereby agree, acknowledge and confirm that:
- (a) the 1888 Surrender was valid, absolute and unconditional, and that all rights and interests of the Mohawks of Akwesasne in the Dundee Lands were released; and
- (b) the Dundee Lands were all leased on or had been leased prior to February 16, 1888, to "parties other than Indians" as provided in the 1888 Surrender.
- 4.2 For greater certainty, portions of the Dundee Lands listed in federal Orders in Council 3912 (1948), 1384 (1959), and 1016 (1966) have been added back to and now form part of Indian Reserve No. 15 of the Mohawks of Akwesasne.

### 5.0 ADDITIONS TO RESERVE/NEW RESERVES

- 5.1 The Parties agree that:
- (a) the total quantum of Acquired Land that may be set apart as reserve pursuant to this Settlement Agreement is 18,282 acres;
- (b) a maximum of three separate reserves, which are not contiguous to any existing reserve, may be created pursuant to this Settlement Agreement within each of the Ontario Selection Area and the Québec Selection Area, for a total maximum of 6 separate reserves;

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Subsections 5.1(a) & (b) provide the terms and limits on additions to reserve. 5.1(c) and (d) provide the process that must be followed in adding lands to the existing Akwesasne reserve.

Same process contained within the *Additions to Reserve Policy*.

Akwesasne has to pay for all costs to add lands to reserve, which is why the primary purpose of the settlement money is to purchase land.

Akwesasne does not have to rush in purchasing property, there is no deadline on this term (s. 5.4).

- (c) in order for Article 5.0 to apply, the Mohawks of Akwesasne must, in the form of a Mohawk Council Resolution, request that Acquired Land be set apart as reserve, and specify that the request is being made pursuant to this Settlement Agreement; and
  - (d) for greater certainty, lands can be added to any reserve in existence on the Effective Date of this Settlement Agreement and to any of the separate reserves created pursuant to Article 5.1(b) to the extent that those additional lands do not exceed the total aggregate of 18,282 acres as set out in Article 5.1.
- 5.2 Notwithstanding Article 5.1(a), nothing in this Settlement Agreement or the Additions to Reserve/Reserve Creation Policy constitutes a guarantee that any particular proposal of the Mohawks of Akwesasne to have Acquired Land set apart as reserve will ultimately result in a particular parcel of land being set apart as reserve. The final decision to set apart land as reserve rests with the Governor in Council. Accordingly, *if the Mohawks of Akwesasne apply to have Acquired Land set apart as reserve, then the Minister may, using the Minister's discretion, recommend to the Governor in Council that the Acquired Land be set apart as reserve for the use and benefit of the Mohawks of Akwesasne*, provided that all applicable laws and Canada's policies and procedures respecting setting apart land as reserve at the time of the Minister's recommendation are satisfied, and in particular, but without limiting the generality of the foregoing, that Canada's Additions to Reserve/New Reserves Policy is met in a manner satisfactory to Canada.
- 5.3 The *Mohawks of Akwesasne shall pay for all costs of acquiring the Acquired Land and for complying with the Additions to Reserve/New Reserves Policy* including, but not limited to, the following costs, as necessary:
- (a) to purchase the land; to clear or correct title; to remove encumbrances, encroachments, and charges; to negotiate replacement rights and instruments; to obtain land title searches, land title registrations, land surveys, legal descriptions, surveyor's certificate of location, and environmental site assessments and reports; for environmental remediation, legal fees, commissions, applicable taxes and tax adjustments, feasibility studies, and appraisals; and agreements relating to municipal services and compensation to municipalities for loss of taxation;
  - (b) for capital infrastructure including, without limitation, the construction, repair, maintenance, operation, and other associated costs of telephone, cable, and hydro-electric service facilities, sewers and other water systems, roads, fencing, housing, schools, recreation facilities, and other community buildings and facilities; and
  - (c) for greater certainty, nothing in Article 5.3 (a) or (b) shall preclude the Mohawks of Akwesasne from benefitting, with respect to Acquired Lands set aside, from funding from Canada under its regular programs for First Nations, or shall be interpreted to make the Mohawks of Akwesasne liable for any costs internal to Canada for which a fee would not in the normal course be charged to a First Nation.
- 5.4 *There shall be no limit as to the time during which the 18,282 acres of Acquired Land may be set aside as reserve.*

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Akwesasne can propose this land use as part of reserve creation process.

5.5 The Mohawks of Akwesasne may propose that Acquired Land be set aside pursuant to Article 5.0 as a reserve to be used primarily for hunting, fishing, trapping, gathering and other traditional pursuits of the Mohawks of Akwesasne.

Akwesasne still has to work with Provincial agencies in returning lands to reserve status.

5.6 Applications made pursuant to Article 5.0 dealing with Acquired Land within the Québec Selection Area shall be submitted to the [Department's Québec Regional Office](#) and those dealing with Acquired Land within the Ontario Selection Area shall be submitted to the [Department's Ontario Regional Office](#).

Implementation committee is only dealing with lands.

**6.0 IMPLEMENTATION COMMITTEE**

6.1 The Parties may establish a committee to oversee the implementation of Article 5.0 of the Settlement Agreement and ensure that it is implemented in a timely manner in accordance with an agreed upon workplan to be developed by the committee.

6.2 The committee shall be composed of the following representatives of the Parties:

(a) for the Mohawks of Akwesasne, one representative to be named by the Council; and

(b) for Canada,

Working with Provincial offices is an Additions to Reserve Policy requirement.

(i) in relation to matters within Ontario, one representative to be named by the [Ontario Regional Director General](#) of the [Department](#); or

(ii) in relation to matters within Québec, one representative to be named by the [Québec Regional Director General](#) of the [Department](#).

Subsection 6.3 and 6.4 are procedures on how the implementation committee will operate.

6.3 Meetings of the committee shall be by teleconference unless the Parties agree that the issues to be discussed require that the representatives meet in person.

6.4 The committee shall meet as frequently as the representatives agree is necessary.

Parties are Akwesasne and Canada.

6.5 In the event of a disagreement among the Parties arising out of the implementation of Article 5.0 of the Settlement Agreement, the Parties shall:

(a) refer the matter to the committee for resolution; and

(b) if the committee is unable to resolve the disagreement, explore, for a reasonable period of time, resolution through negotiation or other dispute resolution mechanisms, including mediation, before resorting to litigation.

Once 18,282 acres have been added to reserve the committee will cease to function.

6.6 Each Party shall pay for the expenses of its committee representative for all committee-related work.

6.7 The committee shall cease to function when Article 5.0 of this Settlement Agreement has been fully implemented.

Akwesasne agrees no further action will be taken by them in court.

## **7.0 RELEASE**

7.1 The Mohawks of Akwesasne agree to forever fully release and discharge Canada and any of its ministers, officials, servants, employees, agents, mandataries, successors and assigns from, and will not assert, any liability or Proceeding that the Mohawks of Akwesasne, their successors or assigns, or their past, present and future Members or any of their respective heirs, descendants, legal representatives, successors and assigns, including a First Nation, self-governing First Nation or Indian band, may ever have had, may now have or may in the future have against Canada and any of its ministers, officials, servants, employees, agents, mandataries, successors and assigns with respect to:

- (a) any aspect of the Claim;
- (b) any and all Negotiation Costs and Negotiation Loan Funding including any deductions from the Compensation for Negotiation Loan Funding;
- (c) the negotiation, the Referendum or other procedures referred to in this Settlement Agreement resulting in the execution of this Settlement Agreement by the Mohawks of Akwesasne;
- (d) the adequacy of the Compensation provided in this Settlement Agreement;
- (e) the deposit of the Compensation Balance pursuant to Article 2.0, the management and use of the Compensation Balance pursuant to Article 3.0, and any subsequent management, investment, disbursement, or any other use of the Compensation Balance, including, without limitation, by the Mohawks of Akwesasne, the Mohawk Council of Akwesasne or any Members, and any loss therefrom whether caused by the Mohawks of Akwesasne, the Mohawk Council of Akwesasne, any Members or by other representatives;
- (f) any actions, inactions, malfeasance or negligence with respect to the management and use of the Compensation Balance by any Person, any entity referred to in Article 3.0 or any authorized investment listed in Schedule 6;
- (g) any loss of the Compensation Balance or interest, in whole or in part, through any failure or otherwise of any Financial Institution, Person, entity referred to in Article 3.0 or authorized investment listed in Schedule 6; and
- (h) the subject matter of any of the representations and warranties of the Mohawks of Akwesasne under Article 14.0.

Once the settlement money has been given to Akwesasne, Canada is no longer responsible for what happens to the money and how it's invested.

Akwesasne agrees to protect Canada from any past or future lawsuits relating to the Dundee claim.

## **8.0 INDEMNITY**

8.1 Subject to Article 8.0, the Mohawks of Akwesasne agree to indemnify and forever save Canada harmless from any Proceeding brought by any Person either prior to or after the Effective Date against Canada or any of its ministers, officials, servants, employees, agents, mandataries, successors and assigns with respect to any matters set out in Article 7.0.

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- Canada will officially notify Akwesasne in the event a legal challenge is made.
- Canada can proceed to defend itself even without Akwesasne's support.
- Even though Akwesasne might join Canada in a legal challenge, it doesn't mean that Akwesasne represents Canada.
- After approval by referendum, Akwesasne agrees to stop court action related to Dundee.
- This also impacts part of the Seaway file for sections that overlap with Dundee.
- Akwesasne guarantees that these are the only 2 court files related to Dundee.
- 8.2 **Canada shall provide notice to the Mohawks of Akwesasne** in accordance with Article 18.0 of any Proceeding referred to in Article 8.1. However, the Mohawks of Akwesasne will not be entitled to avoid liability for indemnification by reason of the lack of timeliness of the notice.
- 8.3 If, after providing notice to the Mohawks of Akwesasne pursuant to Article 8.2, no notice is received by Canada within thirty (30) days that the Mohawks of Akwesasne wish to participate in the resolution of the Proceeding, **Canada shall proceed to settle or defend the Proceeding without the participation of the Mohawks of Akwesasne or, with or without, joining the Mohawks of Akwesasne as a party to the Proceeding.**
- 8.4 If the Mohawks of Akwesasne wish to participate in the resolution of a Proceeding that may give rise to a right of indemnity under Article 8.0, the Mohawks of Akwesasne shall provide notice to Canada that the Mohawks of Akwesasne wish to participate in the resolution of the Proceeding within thirty (30) days of notification pursuant to Article 8.2 and to the extent permitted by law and where appropriate, and at their own expense, may immediately seek to be added as a party to the Proceeding. The Mohawks of Akwesasne may make such investigation, negotiation and settlement of any Proceeding as they deem expedient. This entitlement, however, shall in no way:
- (a) **mean that the Mohawks of Akwesasne are entitled to represent Canada**, and any of its ministers, officials, servants, employees, agents, mandataries, successors and assigns; or
- (b) affect the rights or abilities of Canada and any of its ministers, officials, servants, employees, agents, mandataries, successors and assigns to defend or settle any such Proceeding.
- 8.5 Canada agrees that it shall not refuse to defend any Proceeding based solely on the existence of Article 8.0 and that it shall use all reasonable efforts to defend itself.
- 8.6 Any demand by Canada for indemnification shall be made in writing in accordance with Article 18.0.
- 8.7 Nothing in Article 8.0 prevents Canada from immediately adding or seeking to add the Mohawks of Akwesasne as a party to the Proceeding.
- 9.0 DISCONTINUANCE OF PROCEEDINGS**
- 9.1 The Mohawks of Akwesasne agree to abandon, dismiss or discontinue any and all Proceedings in respect of the Claim, including but not limited to:
- (a) Federal Court File No. T-314-02 (the "Dundee Litigation"), in its entirety; and
- (b) **Federal Court File No. T-2210-76 (the "Seaway Litigation"), to the extent that it asserts or alleges any liability, action, claim or demand related to the Dundee Lands.**
- 9.2 **The Mohawks of Akwesasne warrant that there are no Proceedings in respect of the Claim other than the Federal Court actions listed in Article 9.1.**

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Akwesasne is required to formally discontinue the Dundee Litigation and the noted Seaway Litigation parts in Federal Court if this agreement is approved by the community.

Akwesasne agrees to stop any other court challenge related to this Claim if this agreement is approved.

10.1 (a) and (b) are the Ballot Questions parts.

When the referendum was called, this threshold (25%) was 1,957 voters to participate.

These are the things Akwesasne has to show they have done before Canada will sign the final agreement:  
(a) Chief Referendum Officers Notice of Referendum Results  
(b) Resolution  
(c) Signed agreement by Akwesasne

- 9.3 The Mohawks of Akwesasne agree to obtain, upon approval of this Settlement Agreement in accordance with Article 10.0, an order from the Federal Court approving the discontinuance of the Dundee Litigation and, for the Seaway Litigation, a discontinuance to the extent it asserts or alleges any liability, action, claim or demand related to the Dundee Lands, and agree to instruct their legal counsel to provide to Canada's legal counsel all necessary documents, including a motion to amend the style of cause and to approve the discontinuance, or any other relief required to conform with rule 114 of the *Federal Courts Rules*.
- 9.4 Notwithstanding Articles 9.2 and 9.3, within thirty days of the Effective Date, the Mohawks of Akwesasne agree to abandon, dismiss or discontinue without costs any and all Proceedings in respect of the Claim, including any Proceeding that may arise or of which the Parties may become aware before the Minister executes this Settlement Agreement.
- 9.5 Canada will instruct its legal counsel to consent to the motion as per Article 9.3 and to consent to all dismissals and discontinuances made pursuant to Articles 9.3 and 9.4, also without costs.

### 10.0 REFERENDUM

10.1 The Mohawks of Akwesasne:

- (a) approve the terms and conditions of this Settlement Agreement; and  
(b) authorize and direct the Mohawk Council of Akwesasne to execute this Settlement Agreement;

if, in the Referendum, at least 25% of the Voters vote and a majority (over 50%) of the votes cast by the Voters are in favour of this Settlement Agreement.

- 10.2 For greater certainty, if the required approval pursuant to Article 10.1 is not obtained from the Mohawks of Akwesasne, this Settlement Agreement shall be void and of no force or effect.
- 10.3 The Referendum approving this Settlement Agreement shall be conducted in accordance with the Tsikaristisere/Dundee Claim Settlement Agreement Special Referendum Regulation.

### 11.0 CONDITIONS PRECEDENT TO EXECUTION BY CANADA

11.1 Canada and the Mohawks of Akwesasne agree that the following are conditions precedent that must be fulfilled before Canada will execute this Settlement Agreement:

- (a) approval of the terms of this Settlement Agreement by the Mohawks of Akwesasne in accordance with Article 10.0;
- (b) the issuance and delivery to Canada of an executed Mohawk Council Resolution substantially in the form attached as Schedule 9 agreeing to and approving to the terms and conditions of this Settlement Agreement in accordance with Article 11.1(a);
- (c) execution of this Settlement Agreement on behalf of the Mohawks of Akwesasne in accordance with Article 12.0;

## Tsikaristisere/Dundee Claim Settlement Agreement Plain Language Comments

- (d) and (e) Proof that Akwesasne has stopped court actions relating to Dundee
- (f) Minister already has approval to sign as long as other terms are fulfilled
- (g) Canada's funds are approved, which has already happened
- (h) and (i) Akwesasne provides direction to pay settlement money into an approved account
- (j) Akwesasne provides proof that they have consulted with an independent legal counsel (i.e. Robert Pratt)
- (k) Akwesasne provides proof they are using a certified financial advisor
- (d) the delivery to Canada of an order of the Federal Court approving the discontinuance of the Dundee Litigation;
- (e) the delivery to Canada of an order of the Federal Court approving the discontinuance of the Seaway Litigation to the extent it asserts or alleges any liability, action, claim or demand related to the Dundee Lands;
- (f) the Minister has been authorized to sign this Settlement Agreement;
- (g) funds for the payment of the Compensation have been approved and appropriated for that purpose by Canada;
- (h) the account in a Financial Institution specified in the Direction To Pay has been opened, and the information required by Canada to deposit moneys into that account has been provided to Canada by the Mohawks of Akwesasne;
- (i) receipt by Canada of the Mohawk Council Resolution for Payment and the Direction to Pay substantially in the form attached as Schedule 5;
- (j) receipt by Canada of a Certificate of Legal Advice from the legal counsel of the Mohawks of Akwesasne providing advice with respect to this Settlement Agreement and the management and use of the Compensation Balance by the Mohawk Council of Akwesasne until the transfer of the Compensation Balance by the Mohawk Council of Akwesasne to an entity or entities as described in Article 3.0 dated on or after the date of execution of this Settlement Agreement on behalf of the Mohawks of Akwesasne, attached as Schedule 7; and
- (k) receipt by Canada of a Financial Advisor's Certificate from the Financial Advisor of the Mohawks of Akwesasne dated on or after the date of execution of this Settlement Agreement on behalf of the Mohawks of Akwesasne, attached as Schedule 8.

### 12.0 EXECUTION

The agreement will be put into effect after it is first signed by Akwesasne and then by Canada. Akwesasne will only sign if approved by community in a Referendum vote.

12.1 This Settlement Agreement shall be deemed to be fully executed once signed by:

- (a) the Grand Chief and District Chiefs duly designated and authorized by the Mohawk Council of Akwesasne to execute this Settlement Agreement on behalf of the Mohawks of Akwesasne, in accordance with the Mohawk Council Resolution adopted, substantially in the form attached as Schedule 9; and
- (b) the Minister on behalf of Canada, provided that all of the conditions precedent set out in Article 11.0 have been fulfilled.

### 13.0 EFFECTIVE DATE OF SETTLEMENT AGREEMENT

This agreement will have no legal effect until Canada signs it.

13.1 This Settlement Agreement shall come into effect and bind the Parties on the date on which this Settlement Agreement is executed by Canada in accordance with Article 12.0.

Consultation will determine how the settlement money will be used to benefit the Mohawks of Akwesasne.

Four Held:  
9/19 – Tsi Snaihne  
9/20 – Kawehno:ke  
9/21 – Kana:takon  
9/22 – Southern  
Portion of  
Akwesasne

Legal counsel is  
Robin Pratt.

The Financial Advisor  
is Proteus Investment  
Consulting.

Information Meetings  
require Robin Pratt to  
fully explain terms  
and conditions of this  
agreement.

Independent account  
from the Department  
because it isn't  
"Indian moneys".

Information Meetings  
require Proteus  
Investment  
Consulting to explain  
how the settlement  
money will be  
handled until  
consultation happens  
and the moneys are  
invested.

## 14.0 REPRESENTATIONS AND WARRANTIES

14.1 The Mohawks of Akwesasne represent and warrant that:

- (a) they intend to use the Compensation Balance for the benefit of the Mohawks of Akwesasne and shall take such actions as they deem necessary or advisable to give effect to that intent;
- (b) they have held at least one Information Meeting for Members in each District for the purpose of explaining the terms and conditions of this Settlement Agreement and the management and use of the Compensation Balance by the Mohawk Council of Akwesasne until the transfer of the Compensation Balance by the Mohawk Council of Akwesasne to an entity or entities as described in Article 3.0;
- (c) they have retained independent legal counsel who is qualified to practice law in the Province of Québec to advise them with respect to the legal nature and effect of this Settlement Agreement and the management and use of the Compensation Balance by the Mohawk Council of Akwesasne until the transfer of the Compensation Balance by the Mohawk Council of Akwesasne to an entity or entities as described in Article 3.0;
- (d) they have retained a qualified Financial Advisor independent from Canada to provide financial advice to the Mohawks of Akwesasne in respect of this Settlement Agreement and the management and use of the Compensation Balance by the Mohawk Council of Akwesasne until the transfer of the Compensation Balance by the Mohawk Council of Akwesasne to an entity or entities as described in Article 3.0;
- (e) their legal counsel has fully explained to the Mohawk Council of Akwesasne and to the Members present at the Information Meetings the legal nature and effect of this Settlement Agreement and the management and use of the Compensation Balance by the Mohawk Council of Akwesasne until the transfer of the Compensation Balance by the Mohawk Council of Akwesasne to an entity or entities as described in Article 3.0, including without limitation, the deposit by Canada of the Compensation Balance into an account in a Financial Institution in accordance with Article 2.0 rather than into an account to be managed by the Department for the Mohawks of Akwesasne in accordance with the *Indian Act*, as confirmed by the Certificate of Legal Advice attached to this Settlement Agreement as Schedule 7;
- (f) their Financial Advisor has provided to the Mohawk Council of Akwesasne and to the Members present at the Information Meetings where the Financial Advisor was present, independent financial advice with respect to the management and use of the Compensation Balance by the Mohawk Council of Akwesasne until the transfer of the Compensation Balance by the Mohawk Council of Akwesasne to an entity or entities as described in Article 3.0, and the deposit of the Compensation Balance into an account in a Financial Institution in accordance with Article 2.0 rather than into an account to be managed by the Department for the Mohawks of Akwesasne in accordance with the *Indian Act*, as confirmed by the Financial Advisor's Certificate attached to this Settlement Agreement as Schedule 8;



<p>Canada has no role in deciding where the settlement money goes once the Compensation Balance is paid to Akwesasne.</p>	<p>(g) <a href="#">Canada has not advised</a> the Mohawks of Akwesasne with respect to the placement or management of the Compensation Balance or the structure, terms, management or operation of the Compensation Balance, including as set out in Article 3.0, its deposit into an account in a Financial Institution, or any matter related thereto, and the Mohawks of Akwesasne have obtained or will obtain the advice of their own legal and Financial Advisors in this regard and with regard to all other matters related to the settlement of the Claim; and</p>
<p>Providing Mohawk language interpretation is required through the entire process to make sure all members understand terms of the agreement.</p>	<p>(h) <a href="#">an interpreter fluent in both the Mohawk and English languages was present and available to those Members in need of an interpreter at all times during the Information Meetings and during the Referendum.</a></p>
<p>This agreement won't prevent Akwesasne from accessing programs and services provided by Canada.</p>	<p>14.2 These representations and warranties shall survive the execution of this Settlement Agreement and shall continue to be in full force and effect for the benefit of Canada.</p> <p><b>15.0 PROGRAMS AND SERVICES</b></p> <p>15.1 Nothing in this Settlement Agreement shall affect the ability of the Mohawks of Akwesasne or any Members to be eligible to apply for, or to continue or <a href="#">have access to funding for programs and services offered by Canada</a> as if this Settlement Agreement had not been executed, in accordance with the criteria established from time to time for the application of such programs and services.</p>
<p>Akwesasne and Canada have to use mediation first before resorting to court challenges if they think this agreement is being administered incorrectly.</p>	<p><b>16.0 DISPUTE RESOLUTION</b></p> <p>16.1 In the event of a dispute arising out of this Settlement Agreement, the Parties shall, at their own expense, <a href="#">explore resolution through negotiation or other appropriate dispute resolution procedure, including mediation, before resorting to litigation.</a> Any Party may resort to litigation (30) days after the dispute arises. A dispute is deemed to have arisen after notice has been given by one Party to the other.</p>
<p>Terms and conditions can only be changed using the same process of how this agreement was approved.</p>	<p><b>17.0 AMENDMENTS</b></p> <p>17.1 Subject to Article 17.2, this Settlement Agreement may only be amended or replaced by written agreement between the Parties, <a href="#">upon approval pursuant to the same procedures as this Settlement Agreement was approved.</a></p>
<p>Changes to the terms and conditions are limited to changing conflicts of the agreement and laws, and/or to change timelines on notices or correct errors.</p>	<p>17.2 The Parties, by written agreement between the Mohawks of Akwesasne as represented by the Mohawk Council of Akwesasne and by the Senior Assistant Deputy Minister, Treaties and Aboriginal Government on behalf of Canada, may agree to amend this Settlement Agreement for any of the following purposes:</p> <p>(a) <a href="#">to remove any conflicts or inconsistencies that may exist between any of the terms of this Settlement Agreement and any provision of any applicable law or regulation;</a></p> <p>(b) <a href="#">to amend the time provided in any of the provisions in this Settlement Agreement for doing any act or receiving any notice or written communication; or</a></p>

- (c) to correct any typographical errors in this Settlement Agreement, or to make corrections or changes required for the purpose of curing or correcting clerical omission, mistake, manifest error or ambiguity arising from defective or inconsistent provisions contained in this Settlement Agreement.

## 18.0 NOTICE

- 18.1 Any notice or other written communication required or permitted to be given under this Settlement Agreement will be given by registered mail as follows:

to Canada:

Senior Assistant Deputy Minister  
Treaties and Aboriginal Government  
Crown-Indigenous Relations and Northern Affairs Canada  
Les Terrasses de la Chaudière  
10 Wellington Street  
GATINEAU QC K1A 0H4

to the Mohawks of Akwesasne:

Mohawk Council of Akwesasne, Attention of the Grand Chief  
P.O. Box 90  
Akwesasne, QC H0M 1A0

or at such other address as may be provided in writing by either Party.

- 18.2 Any notice set out in Article 18.1 will be presumed to have been received by the Party **on the earlier of the day it was received or the fifth day after it was mailed.**

- 18.3 During an actual or anticipated postal disruption or stoppage, the mail will not be used by either Party, and if used, such notice will be of no effect. In the event of a postal disruption or stoppage, the Parties may send notice or other written communication required or permitted to be given under this Settlement Agreement by facsimile or email and in so doing, the Party sending the facsimile or email will bear the onus of ensuring its receipt by the other Party.

## 19.0 GENERAL PROVISIONS

- 19.1 This Settlement Agreement is **for the benefit of and is binding upon Canada** and any of its ministers, officials, servants, employees, agents, mandataries, successors and assigns, and **upon the Mohawks of Akwesasne** and their Members, and any of their respective heirs, descendants, legal representatives, successors and assigns.

- 19.2 This Settlement Agreement is entered into by Canada and the Mohawks of Akwesasne **without any admission of fact or liability whatsoever with respect to the Claim.**

- 19.3 This Settlement Agreement, and any information herein, may be recorded in Canada's databases. Any recording, publication or distribution of the above, including for the purpose of complying with requests made under the *Access to Information Act* or the *Privacy Act*, does not comprise or constitute any waiver of settlement privilege that attaches to the settlement of the Claim, including this Settlement Agreement.

Threshold for receiving notice under this agreement. This is a protection so one party doesn't claim that they didn't receive a notice.

Canada's benefit is being released from the claim.

Akwesasne's benefit is money and acquisition of land.

Canada isn't admitting any part of the claim was valid.

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- 19.4 The insertion of headings and recitals, and the provision of a table of contents, are solely for convenience and in no way modify or explain the scope or meaning of any part of this Settlement Agreement.
- 19.5 Words in the singular include the plural and words in the plural include the singular.
- 19.6 Words importing male persons include female persons and corporations.
- 19.7 There shall be no presumption that any ambiguity in any of the terms of this Settlement Agreement should be interpreted in favour of any Party.
- 19.8 The rights and obligations of the Parties to this Settlement Agreement may not be assigned or otherwise transferred without the prior consent of the Mohawks of Akwesasne, which shall be evidenced by a Mohawk Council Resolution, and the prior written consent of Canada, such consent not to be unreasonably withheld.
- 19.9 **This Settlement Agreement shall be governed by the applicable laws of Québec, Ontario and Canada.**
- 19.10 This Settlement Agreement sets out the entire agreement between the Parties with respect to the Claim. There is no representation, warranty, collateral agreement, undertaking or condition affecting this Settlement Agreement, except as expressly set out herein. This Settlement Agreement supersedes and revokes all previous agreements entered into during the course of the negotiation of the Claim, whether oral or in writing between the Parties with respect to the Claim.
- 19.11 All references in this Settlement Agreement to statutes and regulations of Canada shall include, unless a contrary intention is expressed, any such statute or regulation as the same may be amended, re-enacted or replaced from time to time.
- 19.12 The Parties shall in good faith do such things, execute such further documents, and take such further measures as may be necessary to carry out and implement the terms, conditions, intent and meaning of this Settlement Agreement.

Ties into agreement amendment provision of 17.2(a).

IN WITNESS WHEREOF the Minister of Indian Affairs and Northern Development, on behalf of Her Majesty The Queen in Right of Canada, and the Grand Chief and District Chiefs duly designated and authorized by the Mohawk Council of Akwesasne to execute this Settlement Agreement on behalf of the Mohawks of Akwesasne, have executed this Settlement Agreement on the dates indicated below.

For copies of Schedules 1-10, please refer to the full document at [www.akwesasne.ca/referendum](http://www.akwesasne.ca/referendum):

*Mohawks of Akwesasne Tsikaristisere/Dundee Claim Settlement Agreement*

This document is meant to provide plain language comments to help understand the terms and conditions of the Tsikaristisere/Dundee Claim Settlement Agreement. This summary is not intended to be a comprehensive guide of the settlement agreement.

To answer any questions relating to the terms and conditions of the Tsikaristisere/Dundee Claim Settlement Agreement or history of the claim please contact the Aboriginal Rights & Research Office with the Mohawk Council of Akwesasne at 613-575-2348.

For a copy of Schedule 10 – Tsikaristisere/Dundee Claim Settlement Agreement Special Referendum Regulation or any questions relating to the regulation please contact Leona Benedict, Chief Referendum Officer (CRO) at 613-575-2250 ext. 2406 or by email [leona.benedict@akwesasne.ca](mailto:leona.benedict@akwesasne.ca)