



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

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BC Resolution 12-20-06-H

Sixth Amendment to the Oneida Tribe of Indians of Wisconsin Retirement Savings & 401(k) Plan and the Oneida Tribe of Indians of Wisconsin Deferred Compensation Plan

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States; and
- WHEREAS,** the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Business Committee previously adopted the amended and restated Oneida Tribe of Indians of Wisconsin Retirement Savings and 401(k) Plan (the "401(k) Plan"); and
- WHEREAS,** Congress recently passed the Pension Protection Act of 2006, changing the law which governs tribal retirement programs such as the 401(k) Plan; and
- WHEREAS,** legal counsel has recommended that the 401(k) Plan be amended to minimize the impact of certain Internal Revenue Code compliance tests which will apply to the 401(k) Plan beginning on January 1, 2007; and
- WHEREAS,** the Sixth Amendment to the 401(k) Plan, providing that highly paid employees who are classified as "commerce" employees by the Tribe shall be excluded from the 401(k) Plan beginning on January 1, 2007, has been prepared and is being presented to the Business Committee this date; and
- WHEREAS,** legal counsel has further recommended that a non-qualified deferred compensation plan be adopted as a replacement retirement plan for the individuals excluded from the 401(k) Plan pursuant to the Sixth Amendment to the 401(k) Plan; and
- WHEREAS,** the Oneida Tribe of Indians of Wisconsin Deferred Compensation Plan and its related Trust Agreement have been prepared and are being presented to the Business Committee this date.

NOW THEREFORE BE IT RESOLVED, that the Sixth Amendment to the 401(k) Plan is hereby adopted, confirmed and ratified by the Oneida Business Committee, in the form presented for its approval this date; and

BE IT FURTHER RESOLVED, that the appropriate officer or Business Committee member is authorized and directed to execute the Sixth Amendment to the Plan on behalf of the Oneida Tribe of Indians of Wisconsin, together with such legal and technical changes as may be recommended by legal counsel and deemed to be in the best interests of the Tribe; and

BE IT FURTHER RESOLVED, that the Oneida Tribe of Indians of Wisconsin Deferred Compensation Plan (the "DCP") and its related Trust Agreement are hereby adopted, confirmed and ratified by the Oneida Business Committee, in the form presented for its approval this date; and

BE IT FURTHER RESOLVED, that the appropriate officer of the Business Committee is authorized and directed to execute the DCP and its Trust Agreement on behalf of the Oneida Tribe of Indians of Wisconsin, together with such legal and technical changes as may be recommended by legal counsel and deemed to be in the best interests of the Tribe, and;

BE IT FURTHER RESOLVED, that Assistant Chief Financial Officer and Chief Financial Advisor are hereby appointed and authorized to serve as the DCP Administrator pursuant to the terms of the DCP; and

BE IT FURTHER RESOLVED, that the DCP Administrator is hereby authorized and directed to serve as the initial Trustee of the DCP Trust Agreement, in accordance with the term of the DCP and the Trust Agreement; and

BE IT FURTHER RESOLVED, that the Oneida Business Committee hereby consents to the adoption of the DCP by the Oneida Airport Hotel Corporation, the Bay Bank and the Oneida Seven Generals Corporation, all in accordance with the terms of the DCP; and

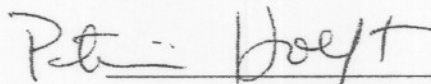
BE IT FURTHER RESOLVED, that the Oneida Business Committee will designate the individuals eligible for participation in the DCP effective as of January 1, 2007, and will direct the DCP Administrator to offer a participation agreement to each such individual before January 1, 2007; and

BE IT FURTHER RESOLVED, that the Tribe's or participating employer's initial employer contributions to the DCP on behalf of eligible DCP participants shall mirror the Tribe's or participating employer's matching contribution made under the respective 401(k) Plan; and

BE IT FINALLY RESOLVED, that the actions taken by Tribal officers and personnel in connection with the matters addressed in this resolution be, and hereby are, ratified, confirmed and adopted as actions of the Oneida Tribe of Indians of Wisconsin.

CERTIFICATION

I, the undersigned, as Secretary fo the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 8 members were present at a meeting duly called, notices and held on the 20th day of December, 2006; that the foregoing resolution was duly adopted at such a meeting by a vote of 6 members for; 0 members against; and 1 members not voting; and that said resolution has not been rescinded or amended in any way.



Patricia Hoelt, Secretary
Oneida Business Committee

**SIXTH AMENDMENT
TO THE
ONEIDA TRIBE OF INDIANS OF WISCONSIN
RETIREMENT SAVINGS AND 401(K) PLAN**

Effective January 1, 1992, the Oneida Tribe of Indians of Wisconsin, a federally recognized Indian tribe (the "Employer"), established the Oneida Tribe of Indians of Wisconsin Profit Sharing Plan, now known as the "Oneida Tribe of Indians of Wisconsin Retirement Savings and 401(k) Plan" (the "Plan"). Effective January 1, 1995, the Plan was amended to add a post-tax employee thrift savings feature and, effective January 1, 1997, the Plan was amended to add a 401(k) savings feature. The Plan was most recently amended and restated in its entirety effective January 1, 1999 and amended for certain additional GUST changes by the First Amendment to the Plan dated January 23, 2002. The Employer received a favorable GUST determination letter on the Plan dated November 4, 2002. The Plan was amended on four subsequent occasions. By this instrument, the Employer intends to amend the Plan's eligibility provisions to exclude certain highly compensated employees from the Plan in connection with the Employer's good faith compliance with the Pension Protection Act of 2006.

1. The provisions of this Sixth Amendment shall be effective as of January 1, 2007.
2. This Amendment shall amend only those sections of the Plan set forth herein, and those sections not amended shall remain in full force and effect.
3. Section 3.1 of the Plan is hereby amended by adding a new paragraph (f) to the end thereof as follows:

(f) COMMERCE HIGHLY COMPENSATED EMPLOYEES.

(1) General Rule. Effective January 1, 2007 and notwithstanding anything in this Plan to the contrary, any Employee who is a Highly Compensated Employee and who dedicates substantially all of his or her employment to the performance of commercial activities for the Employer shall not be eligible to begin or continue participating in this Plan.

(2) Determination of Employment Classification. The Tribe, in

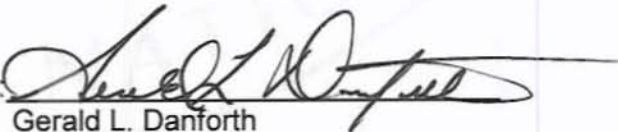
accordance with its reasonable and good faith interpretation of Section 906 of the Pension Protection Act of 2006, shall determine whether a Highly Compensated Employee dedicates substantially all of his or her employment to the performance of commerce activities for the Employer (regardless of whether the Employer is the Tribe or a Tribal division, enterprise, authority, corporation or other entity). Pending guidance from the Internal Revenue Service and/or the Department of Labor, the Tribe shall take into account the following factors when determining whether employment functions are commercial in nature:

- (A) the historic functions performed by the Tribal government;
- (B) the Tribe's role as defined in its Constitution, Bylaws, Ordinances, Resolutions, Judicial decisions, customs and traditions;
- (C) the functions carried on by other governmental employers, including the federal government, states, counties, cities and other local governments;
- (D) the use of revenues generated by activities in question (whether inuring to the benefit of the Tribe and the provision of public services, or whether inuring to private interests); and
- (E) whether the employing entity or division is treated as a non-profit or for-profit entity for tax or other purposes.

(3) Existing Participant Accounts. Any Plan Accounts maintained on behalf of a Highly Compensated Employee who is excluded from Plan participation in accordance with subparagraph (1) above shall not be forfeited or distributed. Rather, such amounts shall be payable in accordance with the terms of this Plan upon the Employee's subsequent termination of employment with the Employer and all Affiliates or upon the occurrence of some other event permitting a distribution pursuant to the provisions of this Plan.

IN WITNESS WHEREOF, the Employer has caused this Sixth Amendment to the Plan to be executed by its duly authorized representative this 29th day of December, 2006.

ONEIDA TRIBE OF INDIANS OF WISCONSIN

By: 
Gerald L. Danforth

Its: Oneida Tribal Chairman

**ONEIDA TRIBE OF INDIANS OF WISCONSIN
DEFERRED COMPENSATION PLAN**

[Compliant with Internal Revenue Code Section 409A]

Initial Effective Date: January 1, 2007

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ONEIDA TRIBE OF INDIANS OF WISCONSIN
DEFERRED COMPENSATION PLAN

ADOPTION AND AMENDMENTS

Effective January 1, 2007, the Oneida Tribe of Indians of Wisconsin, a Federally recognized Indian tribal government with reserved rights of sovereignty (the "Tribe"), hereby establishes the "Oneida Tribe of Indians of Wisconsin Deferred Compensation Plan" (the "Plan").

ARTICLE I

PURPOSE

1.1. PURPOSE.

The Plan is intended to provide tax deferred savings and investment opportunities to attract, reward, and retain employees who are in key positions to promote the successful operations of the Tribe and other Participating Employers. The Plan is designed to accomplish this purpose by allowing qualified individuals to defer compensation and invest amounts above the contribution limits currently permitted under the Internal Revenue Code (the "Code") Section 401(k) cash or deferred arrangements sponsored by the Tribe or Tribal Affiliates (the "401(k) Plans").

The Plan is intended to constitute a non-qualified plan of deferred compensation which is unfunded for tax purposes and maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees. With respect to the management and highly compensated employees who dedicate substantially all of their employment to the performance of commercial activities for the Tribe or a Participating Employer, as determined in accordance with a reasonable and good faith interpretation of Section 906 of the Pension Protection Act of 2006, this Plan is intended to constitute a "top-hat plan," exempt from the requirements of Parts 2 through 5 of Title I of the Employee Retirement Income Security Act of 1974 (the "Act").

The Plan includes those provisions necessary for compliance with Internal Revenue Code (the "Code") Section 409A.

ARTICLE II

DEFINITIONS AND CONSTRUCTION

2.1. DEFINITIONS.

When a word or phrase shall appear in this Plan or in the Trust with the initial letter capitalized, and the word or phrase does not commence a sentence, the word or phrase shall generally be a term defined in this Section 2.1. The following words and phrases utilized in the

Plan with the initial letter capitalized shall have the meanings set forth in this Section 2.1, unless a clearly different meaning is required by the context in which the word or phrase is used:

(a) "ACT" - The Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

(b) "AFFILIATE" - Any member of a "controlled group of corporations" (within the meaning of Section 414(b) of the Code as modified by Section 415(h) of the Code) that includes the Tribe as a member of the group; any member of an "affiliated service group" (within the meaning of Section 414(m)(2) of the Code) that includes the Tribe as a member of the group; any member of a group of trades or businesses under common control (within the meaning of Section 414(c) of the Code as modified by Section 415(h) of the Code) that includes the Tribe as a member of the group; and any other entity required to be aggregated with the Tribe pursuant to regulations issued by the United States Treasury Department pursuant to Section 414(o) of the Code. At the time of the writing of this Plan, published guidance on Code Section 414 does not address tribal governments, entities and enterprises controlled by tribal governments, or corporations or other limited liability companies in which the Tribe is a primary investor or shareholder. Despite this lack of clarity in the Internal Revenue Code, it is assumed for the purpose of this Plan, and pending further guidance, that each corporation in which the Tribe has a controlling interest is an affiliate.

(c) "AUTHORIZED LEAVE OF ABSENCE" - A leave of absence granted in writing in accordance with the Employer's uniformly applied rules regarding leaves of absence or a leave of absence for service as a member of the armed forces of the United States, provided that the Participant left the Employer directly to enter the armed services and returns to the service of the Employer within the period during which his employment or service rights, as applicable, are protected by law.

(d) "BASE ANNUAL SALARY" - The Participant's annualized rate of Compensation excluding Bonus Compensation.

(e) "BENEFICIARY" - The person or persons entitled to receive benefits under this Plan in the event of death of the Participant.

(f) "BENEFIT" - The Participant's accumulated account balances under the Plan, including investment earnings.

(g) "BENEFIT COMMENCEMENT DATE" - The first day on which all events (including the passing of the day on which benefit payments are scheduled to commence) have occurred which entitle the Participant to receive his first benefit payment from the Plan.

(h) "BOARD" - The board or governing body authorized to manage the affairs of a Participating Employer.

(i) "BONUS COMPENSATION" - The term "Bonus Compensation" refers to Compensation (in addition to Base Annual Salary) where (a) the payment of such Compensation or amount of Compensation is contingent on the satisfaction of organizational or individual performance criteria, and (b) the performance criteria are not substantially certain to be met at the

time a deferral election is permitted. Bonus Compensation, if any, is determined by the Employer on a basis independent from this Plan.

(j) "BUSINESS COMMITTEE" - The publically elected governing body of the Tribe.

(k) "CHANGE IN CONTROL" - A "Change in Control" shall mean a change in the ownership or effective control of the Employer, or in the ownership of a substantial portion of the assets of the Employer, as defined in Code Section 409A and the Treasury Regulations issued thereunder. At the time of the writing of this Plan, published guidance on Code Section 409A does not address tribal governments, entities and enterprises controlled by tribal governments, or corporations or other limited liability companies in which the Tribe is a primary investor or shareholder.

(l) "CODE" - The Internal Revenue Code of 1986, as amended.

(m) "COMPENSATION" - All of the Participant's wages or other compensation (including Social Security exempt elected official compensation) paid to the Participant by the Employer for which the Employer furnishes the Participant a written statement on IRS Form W-2. For purposes of this paragraph Compensation for a Plan Year shall include amounts (such as pre-tax deferrals to the 401(k) Plan and deferrals under this Plan) which are not currently includible in the Participant's gross taxable income by reason of the application of Sections 125, 402(e)(3), 402(h)(1)(B), 403(b) or other provisions of the Code, if such amounts are attributable to the performance of services for the Employer in an eligible position hereunder. If elected officials or board members are included for participation in this Plan, their "compensation" shall include elected official or board pay whether reported on IRS Form W-2 or IRS Form 1099.

(n) "DCP ADMINISTRATOR" - The individual or individuals appointed by the Business Committee to administer the Plan pursuant to Article IX. If the Business Committee appoints two or more individuals or entities to act jointly as DCP Administrator, the term "DCP Administrator" shall refer collectively to all of said individuals or entities.

(o) "DISPUTE RESOLUTION FORUM" - The internal or external dispute resolution mechanism approved by the Business Committee when necessary to resolve disputes arising out of this Plan.

(p) "EFFECTIVE DATE" - The general effective date of the Plan is January 1, 2007. An individual's participation in the Plan, however, shall not become effective until after a binding Participation Agreement is entered into. All plan provisions and operational requirements added by Code Section 409A shall, notwithstanding anything herein to the contrary, be effective as of the Code Section 409A required effective date(s).

(q) "ELIGIBLE PERSON" - Each person receiving remuneration, or who is entitled to remuneration, for services rendered to the Tribe or a Participating Employer in a position designated for participation under this Plan. Only key managers or highly compensated employees may be designated for participation in this plan pursuant to Section 3.1(a).

(r) "EMPLOYER DISCRETIONARY CONTRIBUTIONS" - The amounts contributed to the Trust Fund, if any, by the Employer pursuant to Section 5.1.

(s) "EMPLOYER MATCHING CONTRIBUTIONS" - The amounts contributed to the Trust Fund, if any, by the Employer pursuant to Section 5.2.

(t) "EMPLOYER" - The Oneida Tribe of Indians of Wisconsin, a federally recognized Indian tribal government, as well as any Participating Employer as the context so dictates.

(u) "401(k) PLANS" - The 401(k) plan or plans maintained by the Tribe and each Participating Employer. When the singular term "401(k) Plan" is used herein, it refers to the 401(k) Plan maintained by the Employer for which an individual Participant performs services.

(v) "PARTICIPANT" - Each Employee who as of or after the Effective Date has satisfied the eligibility requirements specified in Section 3.1, who has elected to participate pursuant to Section 3.2 and whose participation in the Plan has not been terminated. If so indicated by the context, the term Participant shall also include former Participants whose active participation in the Plan has terminated but who have not received all amounts to which they are entitled pursuant to the terms and provisions of this Plan. Whether former Participants are allowed to exercise an option or election extended to "Participants" will be determined by the DCP Administrator in the exercise of its discretion.

(w) "PARTICIPATING EMPLOYER" - Any Affiliate of the Tribe or any governmental enterprise, unit, division or operation of the Tribe that adopts this Plan for the benefit of its Employees with the consent of the Business Committee.

(x) "PARTICIPATION AGREEMENT" or "PARTICIPATION AND SALARY REDUCTION AGREEMENT" - An agreement entered into between the DCP Administrator and a Participant pursuant to Section 3.2, acknowledging an individual's participation in the Plan. All Participants must enter into a Participation Agreement. A Participation Agreement covering a Participant who makes Salary Reduction Contributions must include a Salary Reduction Agreement satisfying the requirements of Section 3.2(c). A Participation Agreement covering Employer Discretionary Contributions only need not include a Salary Reduction Agreement.

(y) "PLAN" - The Oneida Tribe of Indians of Wisconsin Deferred Compensation Plan, as set forth in this instrument, and as it may hereafter be amended.

(z) "PLAN YEAR" - The Plan Year shall refer to a twelve (12) month period, commencing on each January 1 and ending each following December 31.

(aa) "SALARY REDUCTION AGREEMENT" - An agreement (which may be combined with or incorporated into a Participation Agreement) that: (1) satisfies the requirements of Section 3.2(c); and (2) must be entered into as a condition to receive Salary Reduction Contributions.

(bb) "SALARY REDUCTION CONTRIBUTIONS" - The pre-tax elective deferrals directed by Participants pursuant to Section 4.1(a).

(cc) "STANDARD MONTHLY ANNUITY" - The amount of monthly benefits which shall be used in determining payments under the standard form of benefit as provided in Section 8.3.

(dd) "TERMINATION DATE" - The date a Participant is no longer employed or in the service of the Tribe, an Affiliate, or any Participating Employer. A Participant on an Authorized Leave of Absence shall not be deemed to be terminated.

(ee) "TRUST AGREEMENT" - The Oneida Tribe of Indians of Wisconsin Deferred Compensation Plan Irrevocable Trust Agreement, entered into between the Tribe and the Trustees with respect to the investment of contributions hereunder. Unless directed otherwise with regard to a specific provision or aspect of the Plan or Trust, the Trust Agreement shall be administered at all times in conformance with all provisions required for favorable tax treatment under Revenue Procedure 92-64.

(ff) "TRUST FUND" or "TRUST" - The fund established by the Tribe pursuant to the terms of the Trust Agreement, to provide for the investment of contributions made pursuant to this Plan.

(gg) "TRUSTEES" - The individual, individuals or entity selected by the Business Committee to act as such. The Trustees shall acknowledge acceptance of their appointment by the execution of the Trust Agreement or, in the case of a successor Trustee, by the execution of an appropriate written instrument. If the Business Committee appoints two or more individuals or entities to act jointly as a successor Trustee, the term "Trustee" shall refer collectively to all of said individuals or entities.

(hh) "UNFORESEEABLE HARDSHIP" - A severe financial hardship to the Participant resulting from an illness or accident of the Participant, the Participant's spouse, or a dependent (as defined in Code Section 152(a)) of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The DCP Administrator shall determine the existence of an Unforeseeable Hardship.

(ii) "VALUATION DATE" - The date for valuing the assets of the Trust Fund, which shall be the last business day of the Plan Year and such other dates as the DCP Administrator may designate.

(jj) "YEAR OF SERVICE" - Shall be determined under the same service calculation rules applied under the 401(k) Plans.

2.2. CONSTRUCTION.

(a) GENERAL. The masculine gender, where appearing in the Plan, shall include the feminine gender (and vice versa), and the singular shall include the plural, unless the context clearly indicates to the contrary. The term "delivered to the DCP Administrator," or similar terms as used in the Plan or the Trust Agreement, shall include delivery to a person or persons designated by the DCP Administrator for the disbursement and receipt of administrative forms. Headings and subheadings are for the purpose of reference only and are not to be considered in the construction of this Plan. The Plan shall be construed in a manner consistent with the Employer's intentions as set forth herein.

(b) SAVINGS PROVISION. If any provision of the Plan is determined to be for any reason invalid or unenforceable, the remaining provisions shall continue in full force and effect.

(c) GOVERNING LAW/SOVEREIGN IMMUNITY. All of the provisions of the Plan shall be construed, enforced, and administered according to the laws of the Tribe, except to the extent preempted by federal law. It is the position of the Employer that the Act does not apply to the Plan or to the Employer with respect to those Employees who are not engaged in the performance of commercial activities for the Employer, as determined by the Employer in accordance with the Employer's reasonable and good faith interpretation of Section 906 of the Pension Protection Act of 2006. Nothing in this Section or in any other provision of the Plan, a Participation Agreement, or Trust Agreement shall be construed to make applicable any laws or regulations which a Participating Employer or the Tribe is entitled to exemption from in accordance with its sovereign status. Nothing herein (including without limitation Article X) shall be deemed a general waiver of sovereign immunity. To the extent that a Participant is deemed to have satisfied all of the contractual conditions for payment under this Plan after following the administrative claim procedures herein, however, immunity shall not be used as an independent ground to avoid payment of benefits to a Participant hereunder. This limited waiver shall not be used in favor of any individual or entity other than an approved and duly designated Participant or Beneficiary hereunder. The rights expressed herein are to allow only enforcement of the express contractual promises made herein, and shall not be expanded without express approval of the Business Committee. No rights granted under this Plan may be assigned in any manner.

(d) TOP HAT AND GOVERNMENTAL EXEMPTIONS. The Plan is intended to be treated as an unfunded "top hat plan" exempt from Parts 2 through 5 of Title I of the Act as it is a plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees. The Tribe and the Participating Employers also preserve all government exemptions to which it / they may be entitled under Section 414(d) of the Code and Section 3(32) of the Act. Neither the Tribe nor any Participating Employer intends to waive any exemptions or relief provided to top hat or governmental plans under the Act or Code by its voluntary adoption of policies, procedures, or provisions otherwise not required by the Act or Code with respect to governmental or top hat plans. Rather, the voluntary adoption of any such policies, procedures, or provisions reflects its determination that such policies, procedures, or provisions are consistent with the Employer's desire to provide sound benefits for Participants.

(e) CODE SECTION 409A. The Plan shall be operated and construed in compliance with Code Section 409A, and in accordance with IRS Notice 2005-1, and the Proposed Regulations issued under Code Section 409A, as the same may hereafter be supplemented or amended by future IRS guidance and regulations. Nothing herein shall be construed as a limitation on the Employer's ability to adopt conforming amendments up to the extended remedial amendment periods offered under Code Section 409A.

ARTICLE III

ELIGIBILITY AND PARTICIPATION

3.1. ELIGIBILITY AND PARTICIPATION.

(a) General. Participation in the Plan shall be limited, at all times, to a select group of management or highly compensated Employees of the Tribe or a Participating Employer.

(b) Participation Designations for Tribe. Subject to (a) above, the Business Committee shall designate Eligible Persons employed by the Tribe by class or name for participation in the Plan.

(c) Participation Designations for Participating Employers. Subject to (a) above, each Board shall designate Eligible Persons employed by the Participating Employer under direction of that Board by class or name for participation in the Plan.

3.2. APPLICATION; PARTICIPATION AGREEMENTS.

(a) General. Each Eligible Person who is selected for participation pursuant to Section 3.1 will become a Participant by completing and signing a Participation Agreement provided by the DCP Administrator and delivering the signed agreement to the DCP Administrator.

(b) Participation Agreements. All Participants in the Plan must enter into a Participation Agreement acknowledging the terms of his participation in the Plan. The Participation Agreement must include a Salary Reduction Agreement before a Participant may make Salary Reduction Contributions. Participants receiving only Employer Discretionary Contributions which are automatically contributed to the Plan (if declared) are required to enter into a Participation Agreement; however, it need not include a Salary Reduction Agreement. A Participation Agreement must be entered into before an Employee becomes a Participant hereunder. All Participation Agreements shall, except in the case of Unforeseeable Hardship, be irrevocable and remain in effect throughout the entire Plan Year for which they are effective. Each Participation Agreement shall be in a form approved by the DCP Administrator, the terms of which shall be arrived at through agreement between the DCP Administrator and the Participant, to the extent consistent with this Plan.

(c) Salary Reduction Agreements. Each Salary Reduction Agreement (for Participants seeking to make Salary Reduction Contributions) shall be entered into prior to the first day of a Plan Year for which it is to go into effect unless the Participant is first offered a Participation Agreement mid-year, in which case the agreement must be entered into within 30 days after presentation. All Salary Reduction Agreements shall, except in the case of Unforeseeable Hardship, be irrevocable and remain in effect throughout the entire Plan Year for which they are effective. Each Salary Reduction Agreement (which may be combined with or incorporated into a Participation Agreement) shall be in a form approved by the DCP Administrator, the terms of which shall be arrived at through agreement between the DCP Administrator and the Participant, to the extent consistent with this Plan.

(d) Covered Compensation. A Salary Reduction Agreement may permit separate deferral elections with regard to Base Salary or Bonus Compensation; provided those elections separately satisfy all requirements set forth in (c) above.

(e) Coordination with 401(k). Unless the DCP Administrator approves a Salary Reduction Agreement which is expressly intended to operate on a coordinated basis with the Employer's 401(k) Plan, all Salary Reduction Agreements with respect to a Participant who also participates in the Employer's 401(k) Plan shall be administered independently of the 401(k) Plan. To the extent 401(k) plan coordination is employed, that coordination shall be subject to the following rules and conditions set forth in this Section 3.2(e), subparagraphs (1) through (6):

(1) Spill-Over Arrangement. Each Participant covered by this Section shall make his or her annual deferral election, subject to the general timing rules set forth above, by designating the total percentage or dollar amount which the Participant desires to defer for each calendar year at issue, including deferrals under this non-qualified Plan and the Employer's qualified 401(k) Plan (the "Annual Combined Deferral Amount"). Deferrals shall be applied in the following order:

(i) 401(k) Plan as Primary: Deferrals shall first be applied to the Employer's 401(k) Plan to the extent that such deferrals do not exceed the maximum annual contribution limits under Code Section 402(g), the maximum amount allowable under the 401(k) Plan's Code Section 401(k)(3) actual deferral percentage tests, and/or the maximum annual contribution limits under Code Section 415, subject to all rules, limitations and procedures of the 401(k) Plan.

(ii) Non-Qualified Plan as Secondary: Any additional deferrals necessary to attain the Annual Combined Deferral Amount, shall be applied to the non-qualified Plan, in accordance with all rules, limitations, and procedures of this Plan.

(2) Wrap-Around Arrangement. In lieu of or in addition to the spill-over arrangement referred to in Section (1) above, the DCP Administrator may implement a wrap-around arrangement, to the extent consistent with the terms of the 401(k) Plan, whereby each Participant covered by this Section shall make his or her annual deferral election, subject to the general timing rules set forth above, by designating the total percentage or dollar amount which the Participant desires to defer for each calendar year at issue, including deferrals under this non-qualified Plan and the Employer's qualified 401(k) Plan (the "Annual Combined Deferral Amount"). As of the earliest date administratively practicable following the end of the calendar year for which Compensation (subject to a deferral election) is earned, the maximum amount that may be deferred under the qualified 401(k) Plan (not in excess of the amount specified under Code Section 402(g) for the Plan Year) shall be credited to the Participant's account under the 401(k) Plan, and Participant's deferral under this non-qualified Plan shall be reduced by a corresponding amount. The reduction called for herein shall have no impact on any other non-qualified deferred compensation arrangements in which the Participant participates.

(3) No Change in Time or Form. No 401(k) Plan coordination, including the spill-over and wrap-around arrangements referred to herein, shall be administered in a manner which would result in a change in the time or form of a payment under this non-qualified Plan. Changes in the time and form of all benefits provided hereunder, including those affected by 401(k) Plan coordination, remain subject to Article VIII.

(4) Limited Impact of 401(k). For any given calendar year, the Participant's action or inaction under the 401(k) Plan shall not result in an increase in the amounts deferred under this Plan, and all other non-qualified deferred compensation arrangements in which the Participant participates, in excess of the limit with respect to elective deferrals under Code Section 402(g) in effect for the taxable year in which such action or inaction occurs.

(5) Limitation on Matching Contributions. If at any time during a calendar year a Participant's action or inaction under the 401(k) Plan with respect to elective deferrals or after-tax contributions to the 401(k) Plan will affect the amounts that are credited under this or another non-qualified Plan as matching contributions or other amounts contingent on the Participant's elective deferrals or after-tax contributions, such matching or contingent amounts, as applicable, shall be either forfeited or never credited under this or another non-qualified Plan in the absence of such Participant's elective deferral or after-tax contribution.

(6) 409A Compliance. The 401(k) coordination rules set forth herein are intended to be administered in compliance with IRS Notice 2005-1 and Proposed Treasury Regulation Section 1.409A-2(a)(8), as the same may hereafter be supplemented or modified by further guidance or regulations. The Employer shall implement such other restrictions and procedures as may be required for compliance with Code Section 409A.

3.3. RETURN TO SERVICE.

In the event that a Participant separates from service with the Employer during a Plan Year and later returns to service in an eligible position before the end of that Plan Year, and before his Benefit Commencement Date, such Participant shall resume participation in the Plan upon rehire as if his service had not terminated. If a Participant returns to service after the end of the Plan Year in which his service was terminated or after his Benefit Commencement Date, he must (i) satisfy the eligibility criteria of Section 3.1 following his return, and (ii) enter into a new Participation and Salary Reduction Agreement (within 30 days of his or her eligibility designation) pursuant to Section 3.2. prior to participating or recommencing participation in the Plan.

3.4. TERMINATION OF PARTICIPATION.

A Participant's participation in the Plan, but not his right, if any, to payment of benefits, shall be terminated upon the Participant's separation from service with the Employer or upon his transfer from an eligible class as provided in Section 3.5.

3.5. TRANSFERS TO AND FROM AN ELIGIBLE CLASS.

(a) TRANSFERS OUT OF PLAN. A Participant will automatically become ineligible to participate in the Plan as of the effective date of a change in his classification if as a result of the change he is no longer an Eligible Person under the Plan. All sums credited to the former Participant's accounts will continue to be held pursuant to the terms of this Plan and will be distributed to the former Participant only upon the occurrence of an event permitting a distribution pursuant to the provisions of this Plan.

(b) TRANSFERS TO PLAN. If a individual who was previously not eligible to participate in the Plan becomes eligible during a Plan Year, such Eligible Person's participation

may not begin until (1) he is designated for Participation pursuant to Section 3.1, and (2) he completes a Participation and Salary Reduction Agreement pursuant to Section 3.2.

ARTICLE IV

EMPLOYEE CONTRIBUTIONS

4.1. SALARY REDUCTION RULES AND PROCEDURES.

(a) **GENERAL RULE.** All Employee Contributions made hereunder must be made pursuant to a Salary Reduction Agreement meeting the requirements of Section 3.2. The amount otherwise includible as a Participant's taxable salary or wages shall then be reduced by an amount equal to the contributions made pursuant to his Participation and Salary Reduction Agreement. Each Participant may direct his Employer to make contributions to the Plan pursuant to the elections expressly set forth in his Participation and Salary Reduction Agreement. Two types of deferral elections are permitted under this Plan: (1) Participants may elect to defer a portion of their Base Annual Salary into the Plan; (2) Participants may also elect to defer a portion of their Bonus Compensation into this Plan.

(b) **TRANSFER TO TRUSTEE.** Salary Reduction Contributions shall be forwarded to the Trustee as soon as practicable following the end of the payroll period for which the contribution is made.

(c) **ELECTION PROCEDURES.** A Participant's contributions shall be subject to such restrictions regarding minimum and maximum amounts that may be directed as the DCP Administrator shall determine and announce to Plan Participants.

(d) **COMPLIANCE WITH CODE SECTION 409A.** All deferral elections are subject to the requirements of Code Section 409A, which shall supercede any provisions in this Plan or a Participation and Salary Reduction Agreement to the contrary.

ARTICLE V

EMPLOYER CONTRIBUTIONS

5.1. EMPLOYER DISCRETIONARY CONTRIBUTIONS.

(a) **AMOUNT.** The Tribe and each Participating Employer reserves the right to make "Employer Discretionary Contributions" for any Plan Year on behalf of each of its Participants or on behalf of any class of its Participants. The Business Committee shall determine the amount of Employer Discretionary Contributions to be made on behalf of Participants working for the Tribe. The amount of Employer Discretionary Contributions to be made on behalf of Participants working for a Participating Employer, shall be determined by each Participating Employer's respective Board. Employer Discretionary Contributions are wholly discretionary, and may (without limitation) be tied to performance goals and profitability. Employer Discretionary Contributions may be declared on an annual or quarterly basis, subject to limitations established by the Business Committee for coordination with the Plan's recordkeeping and other service

provider agreements. All contribution declarations shall be evidenced by duly adopted resolutions of the Business Committee or Board, as applicable.

(b) SOURCE. Employer Discretionary Contributions are in addition to an employee's regular Compensation. Such contributions are not available for payment in cash, except pursuant to the terms of the Plan, and are not subject to a deferral or salary reduction election. The Tribe is not responsible for making contributions on behalf of any Employee of a Participating Employer. Nor is a Participating Employer responsible for making contributions on behalf of any Employee of the Tribe or another Participating Employer.

(c) TRANSFER TO TRUSTEE. Employer Discretionary Contributions shall be forwarded to the Trustee or other funding medium within a reasonable time following the date as established in the Business Committee or Board declaration.

(d) INITIAL DECLARATION AND CHANGES. An initial declaration of Employer Discretionary Contributions may, but need not, be designated by the Employer in each Participation Agreement. Prospective declarations or changes to the rate of Employer Discretionary Contributions shall be documented as an addendum to the affected Participant's initial Participation Agreement, signed by an Employer representative and the DCP Administrator.

5.2. EMPLOYER MATCHING CONTRIBUTIONS

(a) AMOUNT. The Tribe and each Participating Employer reserves the right to make "Employer Matching Contributions" for any Plan Year on behalf of each of its Participants, or on behalf of any class of its Participants, who elects to make Employee Salary Deferral Contributions to the Plan. The Business Committee shall determine the amount of Employer Matching Contributions to be made on behalf of Participants working for the Tribe. The amount of Employer Matching Contributions to be made on behalf of Participants working for a Participating Employer, shall be determined by each Participating Employer's respective Board. Employer Matching Contributions are wholly discretionary, and may (without limitation) be tied to performance goals and profitability. Employer Matching Contributions may be declared on an annual or quarterly basis, subject to limitations established by the Business Committee for coordination with the Plan's recordkeeping and other service provider agreements. All contribution declarations shall be evidenced by duly adopted resolutions of the Business Committee or Board, as applicable.

(b) SOURCE. Employer Matching Contributions are in addition to an employee's regular Compensation. Such contributions are not available for payment in cash, except pursuant to the terms of the Plan. Such contributions are expressly contingent on the Participant making Employee Salary Deferral Contributions to this Plan. The Tribe is not responsible for making contributions on behalf of any Employee of a Participating Employer. Nor is a Participating Employer responsible for making contributions on behalf of any Employee of the Tribe or another Participating Employer.

(c) TRANSFER TO TRUSTEE. Employer Matching Contributions shall be forwarded to the Trustee or other funding medium within a reasonable time following the payroll period to which the contribution relates.

(d) INITIAL DECLARATION AND CHANGES. An initial declaration of Employer Matching Contributions may, but need not, be designated by the Employer in each Participation Agreement. Prospective declarations or changes to the rate of Employer Matching Contributions shall be documented as an addendum to the affected Participant's initial Participation Agreement, signed by an Employer representative and the DCP Administrator.

ARTICLE VI

ACCOUNTING; UNFUNDED PLAN

6.1. BOOKKEEPING ACCOUNTS ONLY.

A separate Salary Deferral Contributions Account, a separate Bonus Deferral Contributions Account, a separate Employer Discretionary Contributions Account, and a separate Employer Matching Contributions Account will be maintained for each Participant in the Plan, as appropriate. Each such account shall be adjusted as hereinafter provided to reflect any withdrawals and distributions and the appreciation or depreciation in the value of the assets of the Trust Fund. The establishment and maintenance of separate accounts shall not be construed as giving any person any interest in any specific asset of the Trust which, for investment purposes, shall be administered as a single fund unless and until otherwise directed by the DCP Administrator or otherwise provided herein. All accounts called for hereunder are bookkeeping accounts only. This Plan shall be treated as an unfunded plan of deferred compensation wherein benefits are to be paid from the general assets of the Employer; assets of the Employer shall not be set aside for purposes of paying benefits hereunder except as may be permitted pursuant to Article XIII or Section 13.2.

(a) VALUATION AND ACCOUNT ADJUSTMENTS.

Within a reasonable time after each Valuation Date, the DCP Administrator (or its contracted record keeper) shall apportion changes in the net fair market value of each Participants' bookkeeping accounts for the period ending on the most recent Valuation Date.

ARTICLE VII

VESTING AND FORFEITURES

7.1. VESTING.

All Employee Contributions to the Plan shall be fully vested and nonforfeitable. Except as set forth in Section 7.2 below, all Employer Contributions to the Plan shall be fully vested and nonforfeitable.

7.2. OPTIONAL VESTING AND FORFEITURE PROVISIONS.

The Participant Agreements entered into pursuant to the Plan may incorporate additional risk of forfeiture provisions as may be approved by the DCP Administrator as it deems appropriate or necessary in order to achieve the purposes of this Plan. Without limiting the foregoing, a Participant's Participation Agreement may incorporate a vesting schedule applicable to Employer

Contributions, or may provide for the forfeiture of benefits upon violation of a reasonable covenant not to compete, or upon failure to provide consulting services pursuant to the consulting provisions incorporated into a particular Participation Agreement. Prospective declarations or changes to the vesting schedule applicable to Employer Discretionary or Employer Matching Contributions shall be documented as an addendum to the affected Participant's initial Participation Agreement, signed by an Employer representative and the DCP Administrator.

ARTICLE VIII

DISTRIBUTION OF BENEFITS

8.1. LIFE TIME BENEFITS.

(a) Standard Payment Date: Unless an optional distribution schedule is selected in accordance with (b) below, the distribution of Benefits under the Plan shall normally commence as of the next calendar year following the Participant's Termination Date. Benefits of less than \$10,000, however, shall not be postponed into the next calendar year, except as may be necessary in the normal course and timing required to process, liquidate and properly account for such distribution.

(b) Deferred Payment / Changes: Notwithstanding the foregoing, a Participant may elect to defer the commencement of Benefits to a later date (a "Deferred Payment Date"); provided that such election is made prior to the start of the Plan Year to which the contributions relate or, at any time thereafter, provided that (i) the election may not take effect until at least twelve (12) months after the date on which the election is made, (ii) the election is made no less than twelve (12) months prior to the date benefits would otherwise begin, and (iii) the deferred period is no less than five (5) years past the then expected distribution date. Any election to defer benefits shall be made in accordance with rules and procedures adopted by the DCP Administrator, and pursuant to a written form approved by the DCP Administrator. In no event may a Participant change his Benefit Commencement Date or form of distribution after benefits become distributable.

(c) No Acceleration: Subject to Section 8.7 (Unforeseeable Hardships), 8.8 (Small Account Cash Out Rule), and / or 9.2 (Change in Control), once a standard or Deferred Payment Date is established, a Participant may not thereafter accelerate his or her payment date to an earlier commencement date.

8.2. DEATH BENEFITS.

Upon the death of a Participant prior to his lifetime Benefit Commencement Date, benefits to his Beneficiary or Beneficiaries shall commence as soon as practicable following the date of his death. Death Benefits shall be paid in a single lump sum unless the Participant elects an optional form pursuant to Section 8.3(b).

8.3. METHOD OF DISTRIBUTION.

(a) Standard Form Benefits. The standard form of benefit shall be in the form of annual distributions equal to the Participant's Base Annual Salary immediately preceding his Termination Date, until his or her Benefit is fully exhausted.

(b) Optional Forms. The Participant may elect to receive Benefits (lifetime or death) in a lump sum or in installment payments other than those provided for in the Standard Form; provided that: (1) such elections must be consistent with, and limited by, forms and procedures adopted by the DCP Administrator for that purpose; and (2) such elections must be consistent with, and limited by, Code Section 409A.

8.4. DESIGNATION OF BENEFICIARY.

Each Participant shall have the right to designate, on forms supplied by and delivered to the DCP Administrator, a Beneficiary or Beneficiaries to receive his benefits hereunder in the event of the Participant's death. If the Participant is married when the Beneficiary designation is filed, the designation will be ineffective unless the Participant's spouse consents to the election. Subject to the spousal consent requirements, each Participant may change his Beneficiary designation from time to time in the manner described above. Upon receipt of such designation by the DCP Administrator, such designation or change of designation shall become effective as of the date of the notice, whether or not the Participant is living at the time the notice is received. There shall be no liability on the part of the Employer, the Business Committee, a Board, the DCP Administrator or the Trustee with respect to any payment authorized by the DCP Administrator in accordance with the most recent valid Beneficiary designation of the Participant in its possession before receipt of a more recent and valid Beneficiary designation. If no designated Beneficiary is living when benefits become payable, or if there is no designated Beneficiary, the Beneficiary shall be the Participant's spouse; or if no spouse is then living, such Participant's issue, including any legally adopted child or children, in equal shares by right of representation; or if no such designated Beneficiary and no such spouse or issue, including any legally adopted child or children, is living upon the death of a Participant, or if all such persons die prior to the full distribution of such Participant's benefits, then the Beneficiary shall be the estate of the Participant.

8.5. PAYMENTS TO DISABLED.

If a person entitled to any payment hereunder shall be under a legal disability, or in the sole judgment of the DCP Administrator shall otherwise be unable to apply such payment to his own interest and advantage, the DCP Administrator in the exercise of its discretion may direct the Trustee to make any such payment in any one (1) or more of the following ways: (a) directly to such person, (b) to his legal guardian or conservator, or (c) to his spouse or to any person charged with the legal duty of his support, to be expended for his benefit. The decision of the DCP Administrator shall in each case be final and binding upon all persons in interest.

8.6. UNDERPAYMENT OR OVERPAYMENT OF BENEFITS.

In the event that, through misstatement or computation error, benefits are underpaid or overpaid, there shall be no liability for any more than the correct benefit sums under the Plan. Overpayment may be deducted from future payments under the Plan, to the extent sufficient

payments remain due, and underpayments may be added to future payments under the Plan. A Participant or beneficiary may be required to immediately repay any material overpayment in lieu of future benefit reductions to the extent the DCP Administrator determines, in its sole discretion, that such repayment is necessary or appropriate for compliance with Code Section 409A. The Plan shall be entitled to recover any overpayment in excess of the Participant's Benefit.

8.7. UNFORESEEABLE EMERGENCY.

Notwithstanding any other provisions of the Plan to the contrary, benefits may become payable prior to the general distribution dates provided above, and Participation Agreements (including Salary Reduction Agreements as applicable) entered into pursuant to Section 3.2 may be modified, in the case of an Unforeseeable Emergency. Amounts distributed with respect to an Unforeseeable Emergency, however, may not exceed the amounts necessary to satisfy such emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the Participant's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship). Any modification of a Participation or Salary Reduction Agreement consistent with the Unforeseeable Emergency rules hereunder may only be made on a prospective basis. The DCP Administrator, in its discretion, shall determine when a distribution shall be made pursuant to this Section 8.7.

8.8. \$10,000 CASH OUT RULE.

Notwithstanding any other provisions of the Plan to the contrary, the Business Committee may accelerate payments, to the full extent permitted under Code Section 409A, for Benefit amounts of less than \$10,000.

8.9. TAXES.

Notwithstanding any other provisions of the Plan to the contrary, the Business Committee may accelerate payments, to the full extent permitted under Code Section 409A, for: (1) the payment of the Federal Insurance Contributions Act (FICA) tax imposed under Code Section 3101 and 3121(v)(2) on Compensation deferred under the Plan (the FICA Amount), (2) payment of the income tax at source on wages imposed under Code Section 3401 on the FICA Amount, and (3) payment of the additional income tax at source on wages attributable to the pyramiding of Code Section 3401 wages and taxes.

8.10. ACTUARIAL EQUIVALENTS.

Notwithstanding any other provisions of the Plan to the contrary, the Business Committee may, to the full extent permitted under Code Section 409A, allow a Participant the choice between different forms of actuarial equivalent payments.

ARTICLE IX

CHANGE IN CONTROL PROVISIONS

9.1. NON-REMOVAL OF TRUSTEE. The Employer may not remove the Trustee for a period of twelve (12) months following a Change in Control.

9.2. NO AMENDMENTS. Notwithstanding anything in this Plan or the Trust Agreement to the contrary, during the twelve (12) month period following a Change of Control, neither the Plan nor the Trust shall be amended in a manner inconsistent with this Article IX, Article VIII, or Article XI.

9.3. ACCELERATION. Notwithstanding anything in this Plan or the Trust Agreement to the contrary, the Business Committee or Board, as applicable, may in its discretion, elect to terminate its participation in the Plan, and accelerate the distribution of all Benefits for its Participants hereunder; provided that such election is made within twelve (12) months of a Change in Control and otherwise satisfies the requirements of Code Section 409A.

ARTICLE X

INALIENABILITY OF BENEFITS

10.1. ANTI-ALIENATION. A Participant's rights to benefit payments under the Plan are not subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Participant or the Participant's Beneficiaries.

ARTICLE XI

ADMINISTRATION

11.1. DCP ADMINISTRATOR.

The DCP Administrator shall be the Plan administrator.

11.2. ALLOCATION OF FIDUCIARY RESPONSIBILITY.

The DCP Administrator is the named fiduciary with respect to the administration of the Plan. The DCP Administrator shall not be responsible for any fiduciary functions or other duties assigned to the Trustee pursuant to this Plan or the Trust Agreement.

11.3. POWERS OF THE DCP ADMINISTRATOR.

(a) **GENERAL POWERS.** The DCP Administrator shall have the power and discretion to perform the administrative duties described in this Plan or required for proper administration of the Plan and shall have all powers necessary to enable it to properly carry out such duties. Without limiting the generality of the foregoing, and subject to the review and appeal rights set forth herein, the DCP Administrator shall have the power and discretion to construe and

interpret this Plan, to hear and resolve claims relating to this Plan, and to decide all questions and disputes arising under this Plan. The DCP Administrator shall determine, in the exercise of its discretion, the eligibility of employees to participate in the Plan, the status and rights of a Participant, and the identity of the Beneficiary or Beneficiaries entitled to receive any benefits payable hereunder on account of the death of a Participant. The DCP Administrator shall not, however, have the power or discretion to contradict the express terms and provisions of this Plan document or the Trust Agreement.

(b) REPORTING AND DISCLOSURE. The DCP Administrator shall file all reports and forms lawfully required to be filed by the DCP Administrator with any governmental agency or department, federal, state, or tribal laws of the Tribe, and shall distribute any forms, reports, statements or plan descriptions lawfully required to be distributed to Participants and others by any governmental agency or department, federal, state, or Tribe.

(c) INVESTMENT. The DCP Administrator shall have power to direct specific investments of the Trust Fund only where such power is expressly conferred by this Plan and only to the extent described in this Plan. All other investment duties shall be the responsibility of the Trustee.

(d) PARTICIPATION AND SALARY REDUCTION AGREEMENTS. The DCP Administrator shall have the power and authority to negotiate the specific terms of each Participation and Salary Reduction Agreement consistent with the purposes of this Plan, but which are subject to all conditions and limitations of this Plan.

(e) GENERAL CLAIM PROCEDURES. If an Eligible Person, Participant, Beneficiary or any other person is dissatisfied with the determination of any right or interest under this Plan, such person may file a written statement setting forth the basis of the claim with the DCP Administrator in a manner prescribed by the DCP Administrator. In connection with the determination of a claim, or in connection with review of a denied claim, the claimant may examine this Plan and any other pertinent documents generally available to Participants relating to the claim and may submit comments in writing. A written notice of the disposition of any such claim shall be furnished to the claimant within thirty (30) days after the claim is filed with the DCP Administrator. If the claim is denied, in whole or in part, the claimant shall also be notified in writing that a review procedure is available. Thereafter, within ninety (90) days after receiving the written notice of the DCP Administrator disposition of the claim, the claimant may request in writing a review meeting with the DCP Administrator to present reasons why the claim should be allowed. The claimant also may submit a written statement of his claim and the reasons for granting the claim. Such statement may be submitted in addition to, or in lieu of, the review meeting with the DCP Administrator. The DCP Administrator shall have the right to request of and receive from a claimant such additional information, documents or other evidence as the DCP Administrator may reasonably require. If the claimant does not request a review meeting within ninety (90) days after receiving written notice of the DCP Administrator's disposition of the claim, the claimant shall be deemed to have accepted the DCP Administrator's written disposition, unless the claimant shall have been physically or mentally incapacitated so as to be unable to request review within the ninety (90) day period. A decision on review shall be rendered in writing by the DCP Administrator ordinarily not later than sixty (60) days after review, and a written copy of such decision shall be delivered to the claimant. If special circumstances require an extension of the ordinary period, the DCP Administrator shall so notify the claimant. In any event, if a claim is not determined within one hundred twenty (120) days after submission for review, it shall be deemed to be denied. To the

extent permitted by law, a decision on review by the DCP Administrator shall be binding and conclusive upon all persons whomsoever. To the extent permitted by law, completion of the claims procedures described in this Section shall be a mandatory precondition that must be complied with prior to commencement of a legal or equitable action in connection with the Plan by a person claiming rights under the Plan or by another person claiming rights through such a person. The DCP Administrator may, in its sole discretion, waive these procedures as a mandatory precondition to such an action.

11.4. DISTRIBUTION PROCEDURES.

(a) POWERS OF THE TRUSTEE RELATED TO PLAN DISTRIBUTIONS.

All distributions under the Plan shall be processed by the Trustee. Notwithstanding anything herein to the contrary, the Trustee shall have exclusive authority to direct the payment or cessation of Plan benefits. The Trustee shall oversee the processing of distributions in accordance with the express terms and conditions herein. The Trustee is not authorized to amend, or disregard the terms of the Plan.

(b) GENERAL DISTRIBUTION PROCEDURES. Upon any distribution or forfeiture event, the Participant and the DCP Administrator, and any other interested party shall forward complete copies of all agreements and other documents related to the distribution / forfeiture for review by the Trustee. The Trustee shall then determine, based on such documentation, the timing and form of benefit payment or forfeiture, and shall prepare a written statement setting forth a proposed payment schedule to be followed. The Trustee shall then forward the proposed distribution schedule to the Participant (or Beneficiary if the Participant is deceased) and the DCP Administrator, for their concurrence. If the Participant and the DCP Administrator concur with the proposed distribution schedule, the Trustee shall authorize the disbursement of payments from the Trust consistent therewith. If the Participant and the DCP Administrator fail to concur with a proposed distribution schedule within 10 calendar days after receiving a proposed distribution schedule (the "Concurrence Date"), the Trustee will call a meeting of the parties, in an effort to determine whether all parties can reach an agreement short of dispute resolution as set forth below. If the parties are unable to reach an agreement within 30 days after the Concurrence Date (or such other extended period as agreed and stipulated to by all parties), the distribution will be processed as a contested distribution pursuant to (c) below.

(c) CONTESTED DISTRIBUTION PROCEDURES. If either the Participant or the DCP Administrator fail to concur with a proposed distribution schedule, the Trustee shall take all action to cease any distributions from the Trust (other than those on account of insolvency) until the matter is resolved. Thereafter, the Trustee shall submit the dispute to the Tribe's Dispute Resolution Forum, to be resolved in accordance with the rules and procedures established by the Business Committee for the Dispute Resolution Forum. **THE DECISION REACHED BY THE TRIBE'S DISPUTE RESOLUTION FORUM SHALL BE FINAL AND BINDING. THERE SHALL BE NO FURTHER JUDICIAL REVIEW. ANY ENFORCEMENT RIGHTS HEREUNDER ARE EXPRESSLY LIMITED TO CLAIMS UNDER THE PLAN AND TRUST.**

(d) DISTRIBUTION EXPENSES; INDEMNIFICATION. The fees and expenses of the Trustee, including insurance and/or bonding, shall be paid by the Employer. The Participant, Employer, and DCP Administrator indemnify and hold the Trustee harmless for any

liability or damages of any nature arising out of this Section 11.4, except to the extent of the Trustee's negligence or willful misconduct.

11.5. APPOINTMENT OF DCP ADMINISTRATOR.

The Business Committee shall appoint one or more individuals or entities to perform the duties of the DCP Administrator and who shall hold office during the pleasure of the Business Committee. The individuals serving as DCP Administrator shall serve without compensation but shall be reimbursed for all expenses by the Employer. The DCP Administrator shall conduct itself in accordance with the provisions of this ARTICLE. The individuals appointed to serve as DCP Administrator may resign with thirty (30) days notice in writing to the Business Committee and may be removed immediately at any time by written notice from the Business Committee (subject to any Change in Control restrictions). If no individual DCP Administrator remains, the Business Committee shall serve as the DCP Administrator until successors are appointed.

11.6. RECORDS OF ADMINISTRATOR.

The DCP Administrator or a designee shall record all material acts and determinations regarding Plan administrative decisions, and shall preserve and retain custody of all such records, together with such other documents as may be necessary for the administration of this Plan or as may be required by law.

11.7. APPOINTMENT OF AGENTS.

The DCP Administrator may appoint such other agents as it may deem necessary for the effective performance of its duties, whether ministerial or discretionary, as the DCP Administrator may deem expedient or appropriate. The compensation of any agents who are not employees of the Employer shall be fixed by the DCP Administrator within any limitations set by the Business Committee.

11.8. AUTHORITY TO ACT AND EXECUTE INSTRUMENTS.

So long as two Employees serve as the DCP Administrator, they shall act in concert in all matters, questions and decisions. They may meet informally or take any ordinary action without the necessity of meeting as a group. Following an administrative decision, instruments may be executed by either individual serving as a DCP Administrator.

11.9. CONFLICT OF INTEREST.

No individual DCP Administrator who is a Participant shall take any part in any action in connection with his participation as an individual. Such action shall be voted or decided by the remaining individual DCP Administrators, or by another individual appointed by the Business Committee to vote on or decide such action if no individual DCP Administrator is permitted to take action pursuant to this Section.

11.10. OTHER FIDUCIARY CAPACITIES.

The individuals appointed to serve as DCP Administrator may also serve in any other fiduciary capacity, and, specifically, all or some may serve as Trustee. Notwithstanding any other provision of this Plan, if and so long as any two (2) members of the DCP Administrator also serve as Trustee, any provision of this Plan or the Trust Agreement which requires a direction, certification, notification, or other communication from the DCP Administrator to the Trustee shall be inapplicable. If and so long as any two (2) members of the DCP Administrator also serve as Trustee, any action taken by either the DCP Administrator or the Trustee shall be deemed to be taken by the appropriate party.

ARTICLE XII

SCOPE OF RESPONSIBILITY.

12.1. SCOPE OF RESPONSIBILITY.

(a) **GENERAL.** The Employer, the Business Committee, a Board, the DCP Administrator, any investment manager and the Trustee shall perform the duties respectively assigned to them under this Plan and the Trust Agreement and shall not be responsible for performing duties assigned to others under the terms and provisions of this Plan or the Trust Agreement. No inference of approval or disapproval is to be made from the inaction of any party described above or the employee or agent of any of them with regard to the action of any other such party. Persons, organizations or corporations acting in a position of any fiduciary responsibility with respect to the Plan or the Trust Fund may serve in more than one fiduciary capacity.

(b) **ADVISORS.** The DCP Administrator and the Trustee shall have authority to employ advisors, legal counsel, accountants and investment managers in connection with the administration of the Trust Fund, as set forth herein and in the Trust Agreement. To the extent permitted by applicable law, the Employer, the Business Committee, a Board, the DCP Administrator and the Trustee shall not be liable for complying with the directions of any advisors, legal counsel, accountants or investment managers appointed pursuant to this Plan or the Trust Agreement. Fees for such advisors shall be paid by the Employer, subject to parameters established by the Business Committee.

(c) **INDEMNIFICATION.** To the extent permitted by law, the Employer shall and does hereby jointly and severally indemnify and agree to hold harmless its employees, officers, elected officials, and directors who serve in fiduciary capacities with respect to the Plan and the Trust Agreement from all loss, damage, or liability, joint or several, including payment of expenses in connection with defense against any such claim, for their acts, omissions and conduct, and for the acts, omissions and conduct of their duly appointed agents, which acts, omissions, or conduct constitute or are alleged to constitute a breach of such individual's fiduciary or other responsibilities under the Act or any other law, except for those acts, omissions, or conduct resulting from his own willful misconduct, willful failure to act, or gross negligence; provided, however, that if any party would otherwise be entitled to indemnification hereunder in respect of any liability and such party shall be insured against loss as a result of such liability by any insurance contract or contracts, such party shall be entitled to indemnification hereunder only to the extent by which the amount of such liability shall exceed the amount thereof payable under such insurance contract or contracts.

(d) INSURANCE. The Employer may obtain insurance covering itself and others for breaches of fiduciary and other obligations under this Plan or the Trust Agreement to the extent permitted by law, and nothing in the Plan or the Trust Agreement shall restrict the right of any person to obtain such insurance for himself in connection with the performance of his duties under this Plan or the Trust Agreement. The Trustee, the DCP Administrator, and the Employer do not in any way guarantee the Trust Fund from loss or depreciation. The Employer does not guarantee the payment of any money that may become due to any person hereunder.

ARTICLE XIII

INVESTMENT OF CONTRIBUTIONS

13.1. INVESTMENT OF CONTRIBUTIONS. Contributions to the Trust will be invested by the Trustees of the Plan, who shall be appointed by the Business Committee from time to time. The Trustees shall invest contributions in accordance with any investment policy which the DCP Administrator may adopt and may amend from time to time. The investment policy may include an investment structure whereby the Trustee is directed to meet (to the extent possible) hypothetical investment selections made by Participants based on limited options similar to those offered under the 401(k) Plan. The Plan may also provide earnings credits (and reductions) to a Participant's account based on the hypothetical earnings / losses attributable to his or her selections. However, the Trustees, rather than Participants or Beneficiaries, shall have ultimate authority as to which investments or investment funds are selected for actual investment of Trust assets, and the direction of those funds.

13.2. FUNDING MECHANISMS/TRUST

The Plan shall at all times remain an unfunded plan of deferred compensation. It is the intention of the Tribe that the Plan be unfunded for tax purposes and for purposes of Title I of ERISA. Deferrals under the Plan and earnings thereon shall remain part of the general assets of the Tribe and subject to the claims of the Tribe's general creditors, and the benefit provisions of the Plan shall constitute a mere promise by the Tribe to make benefit payments in the future. However, all Plan funds may be held in a separate trust designed after the Internal Revenue Service' model "Rabbi Trust" as set forth in Revenue Procedure 92-64 and referred to herein as the "Trust Agreement".

ARTICLE XIV

AMENDMENT, MERGER AND TERMINATION

14.1. AMENDMENT

The Business Committee shall have the right at any time, by an instrument in writing duly executed, acknowledged and delivered to the DCP Administrator and the Trustee, to modify, alter or amend this Plan, in whole or in part, prospectively or retroactively; provided, however, that (1) the duties and liabilities of the DCP Administrator and the Trustee hereunder shall not be substantially increased without their written consent; (2) the amendment shall not reduce any Participant's interest in the Plan, calculated as of the date on which the amendment is adopted; (3) the amendment shall not reduce or impair a Participant's right (form or timing) to receive a

distribution, with regard to Benefits determined as of the date on which the amendment is adopted, (4) the effective dates of amendments following a Change of Control may be postponed in accordance with Section 9.1 and 9.2; (5) no amendment shall make the Trust revocable, and (6) no amendment shall violate Code Section 409A. If the Plan is amended after it is adopted by a Participating Employer, unless otherwise expressly provided, it shall be treated as so amended by such Participating Employer without the necessity of any action on the part of the Participating Employer.

14.2. MERGER OR CONSOLIDATION OF AFFILIATES.

The Plan shall not be automatically terminated by a Participating Employer's acquisition by or merger into any other employer, but the Plan shall be continued after such acquisition or merger if the successor employer elects and agrees to continue the Plan and to become a party to the individual Participation Agreements and the Trust Agreement. All rights to amend, modify, suspend, or terminate the Plan shall be transferred to the successor employer, effective as of the date of the merger.

14.3. TERMINATION OF PLAN.

(a) **TERMINATION.** It is the expectation of the Employer that this Plan and the payment of contributions hereunder will be continued indefinitely. However, continuance of the Plan is not assumed as a contractual obligation of the Employer, and the right is reserved at any time to terminate this Plan (subject to Section 9.1, 9.2, and Code Section 409A) or to reduce, temporarily suspend or discontinue future contributions hereunder.

(b) **NO ACCELERATED DISTRIBUTION.** Accept as provided in Section 9.3 (Change in Control), termination of the Plan shall not result in a termination of the Trust or in an acceleration of the distribution of Benefits, which shall be maintained in trust and distributed at the times and in the manner specified in ARTICLE VIII.

ARTICLE XV

GENERAL PROVISIONS

15.1. LIMITATION ON PARTICIPANT'S RIGHTS.

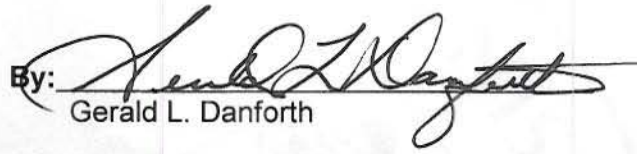
Participation in the Plan shall not give any individual the right to be retained in the Employer's employ or service, or any right or interest in the Trust Fund other than as herein provided. The Employer reserves the right to dismiss any individual without any liability for any claim either against the Trust Fund, except to the extent herein provided, or against the Employer.

15.2. HEIRS AND SUCCESSORS.

All of the provisions of this Plan shall be binding upon all persons who shall be entitled to any benefits hereunder, and their heirs and legal representatives.

IN WITNESS WHEREOF, the Oneida Tribe of Indians of Wisconsin has caused this Plan to be executed by its duly authorized representative on this 29th day of December, 2006.

ONEIDA TRIBE OF INDIANS OF WISCONSIN

By: 
Gerald L. Danforth

Its: Oneida Tribal Chairman