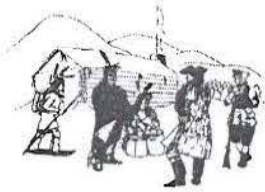


# Oneida Tribe of Indians of Wisconsin



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



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.

## BC Resolution 12-21-11-A The Sixth Amendment to Credit Agreement with Bank of America

- 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 of America, and
- WHEREAS,** the Oneida General Tribal Council is the 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 Tribe has entered into a Credit Agreement dated as of December 1, 2003 (as amended, the "Credit Agreement") with Bank of America, N.A., as a lender and as agent (in such capacity, the "Agent") for certain other lenders (collectively with Bank of America, N.A., the "Lenders"), where under such Lenders have made available to the Oneida Tribe certain revolving credit facilities on the aggregate amount of \$70,000,000, and
- WHEREAS,** the Oneida Tribe has requested that the Agent and the Lenders agree to certain modifications to the Credit Agreement pursuant to a Sixth Amendment to Credit Agreement (the "Amendment"), and
- WHEREAS,** there have been prepared and submitted to the Business Committee drafts of the following documents (collectively, the "Financing Documents") relating to the Credit Agreement:
1. Sixth Amendment to Credit Agreement.
- WHEREAS,** the Oneida Tribe acknowledges that the Financing Documents reaffirm the waiver of the Oneida Tribe's sovereign immunity contained in the Credit Agreement for purposes of their enforcement.

**NOW THEREFORE BE IT RESOLVED,** that the Financing Documents and the loan facilities reflected therein are hereby approved by the Oneida Business Committee.

**BE IT FURTHER RESOLVED,** that the Secretary and the Treasurer of the Oneida Business Committee are hereby authorized and directed to execute and deliver the Financing Documents on behalf of the Oneida Tribe, in substantially the form heretofore provided to this Business Committee with such changes thereto as the Secretary and the Treasurer in their discretion, upon the advice of the Tribal Attorney and Chief Financial Officer shall approve, and to execute and deliver on behalf of the Oneida Tribe such additional instruments and certifications as may be necessary and appropriate in order to implement this resolution and to evidence or secure the Credit Agreement, as amended by the Financing Documents, the Secretary's and the Treasurer's execution and delivery of any document or additional instrument or certification being conclusive evidence of their approval thereof in accordance with this resolution.

**BE IT FURTHER RESOLVED,** that the approvals and authorizations herein contained shall constitute sufficient approvals and authorizations for the borrowing, repayment and reborrowing, from time to time, of the amounts available to be borrowed, and requests for extensions of letters of credit, by the Oneida Tribe under the Financing Documents in the manner provided therein without further action of this Oneida Business Committee.



**BE IT FURTHER RESOLVED**, it is hereby acknowledged that each and every note, pledge agreement, collateral agreement, and other instrument made pursuant to the foregoing Resolutions is and will be made and given for the business purposed of the Oneida Tribe.

**BE IT FURTHER RESOLVED**, the Secretary of the Oneida Business Committee shall certify to the Lenders the names and signatures of the persons who presently are duly elected, qualified and acting as the officers authorized to act under the forgoing resolutions, and the Secretary of the Oneida Business Committee shall from time to time hereafter, upon a change in the facts so certified, immediately certify to the Lenders the names and signatures of the persons then authorized to sign or to act, the Lenders shall be fully protected in relying on such certificates and on the obligation of the Secretary of the Oneida Business Committee immediately to certify to the Lenders any change in any fact certified, and the Lenders shall be indemnified and saved harmless by the Oneida Tribe from any and all claims, demands, expenses, costs and damages resulting from or growing out of honoring or relying on the signature or other authority (whether or not properly used) or any officer whose name and signature was so certified, or refusing to honor any signatures or authority not so certified.

#### **CERTIFICATION**


I, the undersigned, as Secretary of 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, noticed and held on the 21<sup>st</sup> day of December 2011; that the forgoing resolution was duly adopted at such meeting by a vote of 7 members for; 0 members against; and 0 members not voting; and that said resolution has not been rescinded or amended in any way.

I further certify that the Oneida Business Committee has, and at the time of adoption of the forgoing resolutions had, full power and lawful authority to adopt the forgoing resolutions and to confer the powers therein granted upon the officers designated, and that such officers have full power and authority to exercise the same.

I further certify that the officers whose names appear below have been duly elected to and now hold the offices in the Oneida Business Committee as set forth below until August 2014, said date being the expiration date of the terms of said elected officers, and that the signature appearing opposite the name of each of such officers is authentic and official:

Edward Delgado, Chairman

Greg Matson, Vice-Chairman

 2-28-11  


I further certify that copies of the Constitution of the Oneida Tribe and the Bylaws of the Oneida Tribe of Indians of Wisconsin were delivered to the Lenders and Bank of America, N.A. on December 1, 2003. Such copies are complete, true and correct copies of the same. Since delivery of such Constitution and Bylaws there have been no amendments to the same, and each is in full force and effect on the date hereof.

  
Patricia Hoeft, Tribal Secretary  
Oneida Business Committee

\* According to the By-Laws, Article I. Section 1, the Chair votes "only in the case of a tie."

## **SIXTH AMENDMENT TO CREDIT AGREEMENT**

This **SIXTH AMENDMENT TO CREDIT AGREEMENT** (this "Amendment"), made and entered into as of December 21, 2011, is by and between The Oneida Tribe of Indians of Wisconsin, a federally recognized Indian Tribe (the "Borrower"), each lender from time to time party to the Credit Agreement described below (collectively, the "Lenders"; individually, a "Lender"), and Bank of America, N.A., as Administrative Agent for the Lenders (in such capacity, the "Administrative Agent").

### **RECITALS**

A. The Lenders, the Borrower and the Administrative Agent entered into a Credit Agreement dated as of December 1, 2003, as amended by a First Amendment to Credit Agreement dated as of November 30, 2005, a Second Amendment to Credit Agreement dated as of December 5, 2007, a Third Amendment to Credit Agreement dated as of November 26, 2008, a Fourth Amendment to Credit Agreement and Waiver of Defaults dated as of August 12, 2009, and a Fifth Amendment to Credit Agreement dated as of November 15, 2011 (as amended, the "Credit Agreement"); and

B. The parties desire to amend certain provisions of the Credit Agreement, subject to the terms and conditions set forth in this Amendment.

### **AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby covenant and agree to be bound as follows:

**Section 1. Capitalized Terms.** Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement, unless the context shall otherwise require.

**Section 2. Credit Agreement Amendments.** The Credit Agreement is hereby amended as follows:

**2.1 Amended Definition.** Section 1.01 of the Credit Agreement is amended by deleting the following existing definition as it appears therein and by substituting in lieu thereof the following:

"Maturity Date" means January 29, 2012.

**Section 3. Effectiveness of Amendment.** The amendments contained in this Amendment shall become effective as of the date of this Amendment upon delivery of, and compliance by the Borrower with, the following:

**3.1** This Amendment duly executed by the Borrower and the Lenders.

**3.2** A copy of the resolutions of the Oneida Business Committee authorizing the execution, delivery and performance of this Amendment and any other instrument or agreement executed by the Borrower in connection with this Amendment (collectively,



the "Amendment Documents") along with a certification by the Secretary of such Committee (i) certifying that there has been no amendment to the Constitution of the Borrower and the Bylaws of the Borrower since true and accurate copies of the same were previously delivered to the Administrative Agent, and (ii) identifying each Responsible Officer of such Committee authorized to execute the Amendment Documents, and certifying as to specimens of such officer's signature and such officer's incumbency in such offices as such officer holds.

**3.3** The Borrower shall have satisfied such other conditions as specified by the Administrative Agent, including, without limitation, payment of all unpaid legal fees and expenses incurred by the Administrative Agent through the date of this Amendment in connection with the Credit Agreement and this Amendment.

#### **Section 4. Representations, Warranties, Authority, No Adverse Claim, Notice**

**4.1 Reassertion of Representations and Warranties, No Default.** The Borrower hereby represents that on and as of the date hereof and after giving effect to this Amendment (a) all of the representations and warranties contained in the Credit Agreement are true, correct and complete in all respects as of the date hereof as though made on and as of such date, except for changes permitted by the terms of the Credit Agreement, and (b) there will exist no Default or Event of Default under the Credit Agreement as amended by this Amendment on such date.

**4.2 Authority, No Conflict, No Consent Required.** The execution, delivery and performance by Borrower of this Amendment have been duly authorized by all necessary action of the Oneida Business Committee and other action, and do not:

- (a) require any consent or approval not heretofore obtained of the General Tribal Council of the Borrower or of any security holder or creditor;
- (b) violate or conflict with any provision of the Constitution, bylaws or other governing documents of Borrower;
- (c) result in or require the creation or imposition of any Lien (other than pursuant to the Collateral Documents) upon or with respect to any property now owned or leased or hereafter acquired;
- (d) violate any Law or Requirement of Law, including any Gaming Law, applicable to Borrower; or
- (e) result in a material breach of or default under, or would, with the giving of notice or the lapse of time or both, constitute a material breach of or default under, or cause or permit the acceleration of any obligation owed under, any mortgage, indenture or loan or credit agreement or any other Contractual Obligation to which Borrower is a party or by which Borrower or any of its property is bound or affected; and
- (f) Borrower is not in violation of, or default under, any Requirement of Law.



**4.3 No Adverse Claim.** The Borrower warrants, acknowledges and agrees that no events have taken place and no circumstances exist at the date hereof which would give the Borrower a basis to assert a defense, offset or counterclaim to any claim of the Lenders with respect to the Obligations.

**Section 5. Affirmation of Credit Agreement and Security Agreement, Further References, Affirmation of Security Interest.** The Administrative Agent, Lenders party hereto and the Borrower each acknowledge and affirm that each of the Credit Agreement and the Security Agreement, each as hereby amended, is hereby ratified and confirmed in all respects and all terms, conditions and provisions of the Credit Agreement and the Security Agreement, except as amended by this Amendment, shall remain unmodified and in full force and effect. All references in any document or instrument to the Credit Agreement or the Security Agreement are hereby amended and shall refer to the Credit Agreement or the Security Agreement as amended by this Amendment. The Borrower confirms to the Administrative Agent and the Lenders that the Obligations are and continue to be secured by the security interest granted by the Borrower in favor of the Administrative Agent under the Collateral Documents to the extent provided therein and as amended hereby, and all of the terms, conditions, provisions, agreements, requirements, promises, obligations, duties, covenants and representations of the Borrower under the Loan Documents are incorporated herein by reference and are hereby ratified and affirmed in all respects by the Borrower.

**Section 6. Merger and Integration, Superseding Effect.** This Amendment, from and after the date hereof, embodies the entire agreement and understanding between the parties hereto and supersedes and has merged into this Amendment all prior oral and written agreements on the same subjects by and between the parties hereto with the effect that this Amendment, shall control with respect to the specific subjects hereof and thereof.

**Section 7. Severability.** Whenever possible, each provision of this Amendment and any other statement, instrument or transaction contemplated hereby or thereby or relating hereto or thereto shall be interpreted in such manner as to be effective, valid and enforceable under the applicable law of any jurisdiction, but, if any provision of this Amendment or any other statement, instrument or transaction contemplated hereby or thereby or relating hereto or thereto shall be held to be prohibited, invalid or unenforceable under the applicable law, such provision shall be ineffective in such jurisdiction only to the extent of such prohibition, invalidity or unenforceability, without invalidating or rendering unenforceable the remainder of such provision or the remaining provisions of this Amendment or any other statement, instrument or transaction contemplated hereby or thereby or relating hereto or thereto in such jurisdiction, or affecting the effectiveness, validity or enforceability of such provision in any other jurisdiction.

**Section 8. Successors.** This Amendment shall be binding upon the Borrower, the Administrative Agent and the Lenders and their respective successors and assigns, and shall inure to the benefit of the Borrower, the Administrative Agent and the Lenders and the successors and assigns of the Lenders.

**Section 9. Legal Expenses.** As provided in Section 10.04 of the Credit Agreement, the Borrower agrees to, upon execution of this Amendment, pay all reasonable out-of-pocket expenses (including attorneys' fees and legal expenses of Dorsey & Whitney LLP, counsel for the Administrative Agent) incurred in connection with this Amendment.

**Section 10. Headings.** The headings of various sections of this Amendment have been inserted for reference only and shall not be deemed to be a part of this Amendment.

**Section 11. Counterparts.** This Amendment may be executed in several counterparts as deemed necessary or convenient, each of which, when so executed and delivered by .pdf or otherwise, shall be deemed an original, provided that all such counterparts shall be regarded as one and the same document, and any party to this Amendment may execute this Amendment by executing a counterpart thereof.

**Section 12. Governing Law.** THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF ILLINOIS; PROVIDED THAT THE ADMINISTRATIVE AGENT AND THE LENDERS SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

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**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed as of the date and year first above written.

THE ONEIDA TRIBE OF INDIANS OF  
WISCONSIN

By   
Its \_\_\_\_\_

By  12-28-11  
Its \_\_\_\_\_

BANK OF AMERICA, N.A., as  
Administrative Agent

By \_\_\_\_\_  
Its \_\_\_\_\_

BANK OF AMERICA N.A., as a Lender, L/C  
Issuer and Swing Line Lender

By \_\_\_\_\_  
Its \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION, as  
a Lender

By \_\_\_\_\_  
Its \_\_\_\_\_

ASSOCIATED BANK, NATIONAL  
ASSOCIATION, as a Lender

By \_\_\_\_\_  
Its \_\_\_\_\_