CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION CLENCH DEFALCATION SPECIFIC CLAIM SETTLEMENT AGREEMENT

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CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT

BETWEEN:

The Chippewas of Kettle and Stony Point First Nation, a "band" within the meaning of the *Indian Act*, as represented by its Council

(hereinafter called the "First Nation")

AND:

Her Majesty the Queen in Right of Canada, as represented by the Minister of Crown-Indigenous Relations

(hereinafter called "Canada")

PREAMBLE

WHEREAS:

A. In 2007, the First Nation submitted the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim under Canada's Specific Claims Policy, alleging, among other things, that then-Superintendent J.B. Clench misappropriated funds from the 1852 surrender and the 1853 and 1854 sale of those surrendered reserve lands of the Chippewas of Sarnia Band (of which the First Nation and the Aamjiwnaang First Nation are the current successors) and that the 1906 settlement paid by the then-Department of Indian Affairs was inadequate, the release for it having been obtained under unjust circumstances.

B. By letter dated September 23, 2011, Canada accepted the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim for negotiation under the Specific Claims Policy. Since the Claim pertains to an asset of the Chippewas of Sarnia Band to which both the First Nation and the Aamjiwnaang First Nation are the current beneficiaries as the two successors of the Chippewas of Sarnia Band, an Apportionment Agreement dated May 31, 2019, was entered into as between the First Nation and the Aamjiwnaang First Nation to direct the apportionment of Compensation for this Claim.

C. The settlement of this Claim is a reflection of Canada's commitment to reconciliation and to Canada's goal of addressing historical First Nation grievances that are the subject matter of specific claims.

D. Canada and the First Nation have negotiated terms of settlement as contained in this Settlement Agreement in order to achieve a full, fair and final settlement of the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim.

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NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS SETTLEMENT AGREEMENT CANADA AND THE FIRST NATION AGREE AS FOLLOWS:

1.0 DEFINITIONS AND SCHEDULES

1.1 In this Settlement Agreement:

(a) "**Apportionment Agreement**" means the instrument adopted by Council by which the First Nation and the Aamjiwnaang First Nation, both as Claim beneficiaries as the successors to the Chippewas of Sarnia Band, agreed to apportion the Compensation for the Claim, which is Schedule 6 of this Settlement Agreement.

(b) "**Ballot Question**" means the question asked of the Voters in a Ratification Vote, which is Schedule 2 of this Settlement Agreement.

(c) "**Band Council Resolution**" means a written resolution of the Council adopted at a duly convened meeting.

(d) "**Band List**" has same meaning as defined in the *Indian Act.*

(e) "**Canada**" means Her Majesty the Queen in Right of Canada, as represented by the Minister.

(f) "**Claim**" means all matters, issues and allegations contained in the submissions of the First Nation under the Specific Claims Policy or in any Proceeding, arising or resulting from the same or substantially the same facts upon which the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim is based, and any liability, cause of action, suit, damage, loss or demand whatsoever, known or unknown, in law or equity or otherwise, related to or arising or resulting from the defalcation by Superintendent J.B. Clench of funds from the 1852 surrender and the 1853 and 1854 sale of surrendered reserve lands of the Chippewas of Sarnia Band (of which the First Nation and the Aamjiwnaang First Nation are the current successors) and the inadequacy and unjust circumstances of the 1906 settlement of $1,363.87 paid by the Department of Indian Affairs for the corresponding Release of Demands.

(g) "**Compensation**" means the amount agreed upon by the First Nation, the Aamjiwnaang First Nation and Canada as compensation for the entire Claim as set out in Article 2.1.

(h) "**Compensation Balance**" means the apportioned amount to be paid to the First Nation pursuant to the Apportionment Agreement after any

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deduction for repayment of Negotiation Loan Funding and includes an amount for Negotiation Costs.

(i) "**Council**" means the Council of the First Nation, which is a "council of the band" within the meaning of the *Indian Act*, and includes the Chief.

(j) "**Direction to Pay**" means the document by which the Council directs Canada to deposit the Compensation Balance in accordance with Article 2.0, substantially in the form attached to this Settlement Agreement as Schedule 4.

(k) "**Effective Date**" means the date on which this Settlement Agreement is executed by Canada in accordance with Article 8.0.

(l) "**Financial Institution**" means any bank or trust company that is authorized by law to accept deposits and which is supervised and regulated by the Superintendent of Financial Institutions as defined in the *Office of the Superintendent of Financial Institutions Act,* R.S.C. 1985, c. I-8 (3rd Supp).

(m) "**First Nation**" means the Chippewas of Kettle and Stony Point, also known as the Anishinaabeg of Kettle and Stony Point First Nation and/or Kettle and Stony Point First Nation, a "band" within the meaning of the *Indian Act*, as represented by its Council, being one of two successor First Nations of the Chippewas of Sarnia Band.

(n) "***Indian Act***" means the *Indian Act*, R.S.C. 1985, c.I-5 and its regulations.

(o) "**Information Meeting**" means those information-sharing processes deemed appropriate by Council, which may include in-person or virtual meetings, at which legal counsel and a financial advisor retained by the First Nation, and any other persons requested by Council, will explain to all Members who participate the nature and effect of this Settlement Agreement.

(p) "**Member**" means a person whose name appears or who is entitled to have their name appear on the Band List of the First Nation.

(q) "**Minister**" means the Minister of Crown-Indigenous Relations or the Minister's duly authorized representative.

(r) "**Negotiation Costs**" means any and all costs incurred by the First Nation for the research, preparation, negotiation and settlement of the Claim, and the ratification of the Settlement Agreement, including legal fees.

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(s) "**Negotiation Loan Funding**" means the total amount of loan funding provided to the First Nation by Canada for the purpose of negotiating and settling this Claim.

(t) "**Party**" means either the First Nation or Canada.

(u) "**Person**" means any individual, proprietor, corporation, partner, partnership, trust, joint venture, unincorporated organization, governmental body including provincial, territorial, regional and municipal governments, First Nation, self-governing First Nation, Indian band, Aboriginal group, or union, including, without limitation, any past, present or future Members and each of their respective heirs, descendants, legal representatives, successors and assigns.

(v) "**Proceeding**" means any legal proceeding, action, cause of action, suit, claim, specific claim or demand whatsoever, known or unknown, whether in law, in equity or otherwise.

(w) "**Ratification Vote**" means a vote referred to in Article 6.0 on the Ballot Question conducted in accordance with the Voting Guidelines.

(x) "**Settlement Agreement**" means this settlement agreement including the attached Schedules.

(y) "**Specific Claims Policy**" means Canada's policy on specific claims in effect from time to time.

(z) "**Voter**" means "elector" as that word is defined in the *Indian Act*.

(aa) "**Voting Day**" means the day set for holding the Ratification Vote.

(bb) "**Voting Guidelines**" means the *Anishinaabeg of Kettle and Stony Point First Nation Ratification Voting Procedures* contained in Schedule 7 and adopted by Council.

1.2 Except as otherwise defined in this Settlement Agreement, any words used in this Settlement Agreement that are defined in the *Indian Act* have the same meaning as they have in the *Indian Act*.

1.3 The following Schedules are attached to and form part of this Settlement Agreement:

Schedule 1	Solicitor's Certificate
Schedule 2	Ballot Question
Schedule 3	Financial Advisor's Certificate
Schedule 4	Form of Band Council Resolution for Payment & Direction to Pay

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Schedule 5	Form of Band Council Resolution
Schedule 6	Apportionment Agreement
Schedule 7	Voting Guidelines

2.0 COMPENSATION

2.1 Subject to the terms and conditions set out in this Settlement Agreement, Canada agrees to pay thirty-five million, seven hundred twenty-eight thousand, three hundred fifty-four dollars ($35,728,354) as Compensation for the entire Claim, of which both the First Nation and the Aamjiwnaang First Nation are beneficiaries, in accordance with the Apportionment Agreement.

2.2 The First Nation agrees to accept seventeen million, two hundred fourteen thousand, nine hundred nine dollars ($17,214,909) as the apportioned Compensation and an amount for Negotiation Costs, in full and final settlement of the Claim, and authorizes and directs Canada to deduct from that amount the total amount of the Negotiation Loan Funding, to satisfy the First Nation's full and final repayment of its Negotiation Loan Funding.

2.3 The First Nation authorizes and directs Canada to pay the Compensation Balance in accordance with the Direction to Pay.

2.4 If the First Nation ratifies the Settlement Agreement as set out in Article 6.0, then the First Nation shall provide Canada with an irrevocable Direction to Pay and a Band Council Resolution for Payment, substantially in the form attached as Schedule 4, together with any other documentation required by Canada for purposes of depositing funds.

2.5 Canada agrees to pay and transfer the Compensation Balance within forty-five (45) days of the Effective Date.

2.6 The Parties agree and intend that the Compensation Balance is not "Indian moneys" within the meaning of the *Indian Act* and accordingly the provisions of the *Indian Act* with respect to the management of Indian moneys shall not apply to the Compensation Balance.

2.7 The sole responsibility of Canada with respect to the Compensation Balance is to pay and deposit the Compensation Balance in accordance with Article 2.0. Canada will rely on the Direction to Pay provided by the First Nation.

3.0 RELEASE

3.1 The First Nation agrees to forever release and discharge Canada and any of its ministers, officials, servants, employees, agents, successors and assigns from, and will not assert, any liability or Proceeding that the First Nation, its successors or assigns, or its past, present and future Members or any of their respective

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heirs, descendants, legal representatives, successors and assigns, including a First Nation, self-governing First Nation or Indian band, may ever have had, may now have or may in the future have against Canada and any of its ministers, officials, servants, employees, agents, successors and assigns with respect to:

(a) any aspect of the Claim;

(b) any and all Negotiation Costs and Negotiation Loan Funding, including any deductions from the Compensation for Negotiation Loan Funding;

(c) the negotiation, ratification or other procedures referred to in this Settlement Agreement resulting in the execution of this Settlement Agreement by the First Nation;

(d) the adequacy of the Compensation and Compensation Balance provided in this Settlement Agreement;

(e) the deposit of the Compensation Balance pursuant to Article 2.0, and any subsequent management, investment, disbursement, or any other use of the Compensation Balance, including, without limitation, by the First Nation, Council or Members, and any loss therefrom whether caused by the First Nation, Council, Members or other representatives;

(f) any loss of the Compensation Balance or interest, in whole or in part, through any failure of a Financial Institution or otherwise; and

(g) the subject matter of any of the representations and warranties of the First Nation under Article 10.0.

4.0 INDEMNITY

4.1 The First Nation agrees to indemnify and forever save Canada harmless from any Proceeding brought by any Person against Canada or any of its ministers, officials, servants, employees, agents, successors and assigns with respect to any matters set out in Article 3.0.

4.2 Canada shall provide notice to the First Nation in accordance with Article 14.0 of any Proceeding referred to in Article 4.1. However, the First Nation will not be entitled to avoid liability for indemnification by reason of the timeliness of the notice, unless a lack of timeliness precludes the First Nation from participating in the Proceeding as set out in Article 4.5.

4.3 If, after providing notice to the First Nation pursuant to Article 4.2, no notice is received by Canada within thirty (30) days that the First Nation wishes to participate in the Proceeding, Canada shall proceed to settle or defend the

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Proceeding without the First Nation's participation or, with or without, joining the First Nation as a party to the Proceeding.

4.4 Prior to settling any Proceeding, Canada will advise the First Nation and provide the First Nation with an opportunity to respond with its position on the proposed settlement. Canada will take into consideration any response provided by the First Nation.

4.5 If the First Nation wishes to participate in a Proceeding that may give rise to a right of indemnity under Article 4.0, the First Nation shall provide notice to Canada that the First Nation wishes to participate in the resolution of the Proceeding within thirty (30) days of notification pursuant to Article 4.2 and to the extent permitted by law and where appropriate, and at its own expense, immediately seek to be added as a party to the Proceeding. The First Nation may make such investigation, negotiation and settlement of any Proceeding as it deems expedient. This entitlement, however, shall in no way:

(a) mean that the First Nation is entitled to represent Canada, and any of its ministers, officials, servants, employees, agents, successors and assigns; or

(b) affect the rights or abilities of Canada and any of its ministers, officials, servants, employees, agents, successors and assigns to defend or settle any such Proceeding.

4.6 Canada agrees that it shall not refuse to defend any Proceeding based solely on the existence of Article 4.0 and that it shall use all reasonable efforts to defend itself.

4.7 Any demand by Canada for indemnification shall be made in writing in accordance with Article 14.0.

4.8 Nothing in Article 4.0 prevents Canada from immediately adding or seeking to add the First Nation as a party to the Proceeding.

5.0 DISMISSAL OF PROCEEDINGS

5.1 Subject to Article 5.2, the First Nation agrees to:

(a) abandon, dismiss or discontinue all Proceedings based on the same or substantially the same facts giving rise to the Claim, within 90 days from the Effective Date; and

(b) instruct its legal counsel to file all the necessary documents to do so and to serve Canada with a copy of all such documents duly filed.

5.2 For any Proceeding filed in the Federal Court that is a "representative proceeding" as per rule 114 of the *Federal Court Rules* (SOR/98-106), the First Nation agrees to obtain an order of the Federal Court approving its discontinuance or settlement prior to the execution of this Settlement Agreement by the Minister.

6.0 RATIFICATION

6.1 Since both the First Nation and the Aamjiwnaang First Nation are beneficiaries of the Claim, in order to achieve certainty and finality with respect to the Claim, each must successfully ratify its respective Settlement Agreement in accordance with its own Voting Guidelines in order for the entire ratification process for the settlement of the Claim to be successful.

6.2 The First Nation:

(a) agrees to all the terms and conditions of this Settlement Agreement; and

(b) authorizes and directs the Council to sign this Settlement Agreement

if, at the Ratification Vote, a minimum of 25% plus one of the Voters vote in favour of the Settlement Agreement and those who vote in favour are a majority of those who vote.

6.3 For greater certainty, if the required approval and assent pursuant to Articles 6.1 and 6.2 are not obtained, this Settlement Agreement shall be void and of no force or effect.

6.4 All Ratification Votes with respect to this Settlement Agreement shall be conducted in accordance with the Voting Guidelines.

7.0 CONDITIONS PRECEDENT TO EXECUTION BY CANADA

7.1 Canada and the First Nation agree that the following are conditions precedent that must be fulfilled before Canada will consider executing this Settlement Agreement:

(a) ratification and approval of the terms of this Settlement Agreement by the First Nation in accordance with Article 6.0, which includes successful ratification by the Aamjiwnaang First Nation of its own settlement agreement pertaining to the Claim;

(b) the issuance and delivery to Canada of an executed Band Council Resolution substantially in the form attached as Schedule 5 approving and assenting to the terms and conditions of this Settlement Agreement by the First Nation in accordance with Article 7.1(a);

(c) execution of this Settlement Agreement by the First Nation in accordance with Article 8.0;

(d) the Minister has been authorized to sign this Settlement Agreement;

(e) funds for the payment of the Compensation Balance have been approved and appropriated for that purpose by Canada;

(f) receipt by Canada of the Band Council Resolution for Payment and the Direction to Pay substantially in the form attached as Schedule 4;

(g) receipt by Canada of a Solicitor's Certificate, which is Schedule 1 of this Settlement Agreement, from the First Nation's legal counsel, dated on or after the date of execution of this Settlement Agreement by the First Nation; and

(h) receipt by Canada of a Financial Advisor's Certificate, which is Schedule 3 of this Settlement Agreement, from the First Nation's financial advisor dated on or after the date of execution of this Settlement Agreement by the First Nation.

8.0 EXECUTION

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

(a) Council on behalf of the First Nation following ratification of this Settlement Agreement in accordance with Article 6.0; and

(b) the Minister on behalf of Canada, provided that all of the conditions precedent set out in Article 7.0 have been fulfilled.

9.0 EFFECTIVE DATE OF SETTLEMENT AGREEMENT

9.1 This Settlement Agreement shall come into effect and bind the Parties on the date on which this Settlement Agreement is executed by Canada in accordance with Article 8.0.

10.0 REPRESENTATIONS AND WARRANTIES

10.1 The First Nation represents and warrants that:

(a) it intends to use the Compensation Balance for the benefit of the First Nation and shall take such actions as it deems necessary or advisable to give effect to that intent;

(b) it made reasonable efforts to provide all Voters, whether residing on

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reserve or elsewhere, with an opportunity to participate in the Ratification Vote;

(c) it has held an Information Meeting for Members for the purposes of explaining the terms and conditions of this Settlement Agreement;

(d) it has retained and relied upon independent legal counsel who is qualified to practice law in the Province of Ontario to advise it in respect of the legal nature and effect of this Settlement Agreement;

(e) it has retained and relied upon a qualified financial advisor independent from Canada to provide financial advice to the First Nation in respect of this Settlement Agreement;

(f) its legal counsel has fully explained to the Council and to the Members who participated in the Information Meeting the legal nature and effect of this Settlement Agreement, as well as its implementation, including without limitation, the deposit by Canada of the Compensation Balance into an account managed by the First Nation with a Financial Institution in accordance with Article 2.0 rather than into an account managed by Canada for the First Nation in accordance with the *Indian Act*, as confirmed by the certificate that is Schedule 1 of this Settlement Agreement;

(g) its financial advisor has provided to the Council and to the Members who participated in the Information Meeting where the financial advisor was present, independent financial advice with respect to the management and administration of the Compensation Balance, and the deposit of the Compensation Balance into an account managed by the First Nation with a Financial Institution in accordance with Article 2.0 rather than into an account managed by Canada for the First Nation in accordance with the *Indian Act*, as confirmed by the certificate that is Schedule 3 of this Settlement Agreement;

(h) Canada has not advised the First Nation with respect to the placement or management of the Compensation Balance, or any matter related thereto, and the First Nation has obtained the advice of its own legal and financial advisors in this regard and with regard to all other matters related to the settlement of the Claim; and

(i) the First Nation is one of two successor First Nations of the Chippewas of Sarnia Band.

10.2 These representations and warranties shall survive the execution of this Settlement Agreement and shall continue in full force and effect for the benefit of Canada.

11.0 PROGRAMS AND SERVICES

11.1 Nothing in this Settlement Agreement shall affect the ability of the First Nation or any of its respective members to apply for or otherwise have access to other programs and services funding offered by Canada, in accordance with the terms and conditions that govern those programs and services.

12.0 DISPUTE RESOLUTION

12.1 In the event of a dispute arising out of this Settlement Agreement, the Parties shall, at their own expense, explore resolution through negotiation or other appropriate dispute resolution procedure, including mediation, before resorting to litigation. Any Party may resort to litigation thirty (30) days after the dispute arises. A dispute is deemed to have arisen after notice has been given by one Party to the other.

13.0 AMENDMENTS

13.1 Subject to Article 13.2, this Settlement Agreement may only be amended or replaced by written agreement between the Parties, upon approval pursuant to the same procedures as this Settlement Agreement was approved.

13.2 The Parties, by written agreement between the First Nation, as represented by its Council, and Canada, as represented by the Assistant Deputy Minister responsible for the implementation of this Settlement Agreement, may agree to amend this Settlement Agreement for any of the following purposes:

(a) to remove any conflicts or inconsistencies that may exist between any of the terms of this Settlement Agreement and any provision of any applicable law or regulation;

(b) to amend the time provided in any of the provisions in this Settlement Agreement for doing any act or receiving any notice or written communication; or

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

14.0 NOTICE

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

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to Canada: Director General, Specific Claims Branch
Crown-Indigenous Relations and Northern Affairs Canada
Les Terrasses de la Chaudière
10 Wellington Street, Gatineau, QC K1A 0H4

to the First Nation: Chief and Council
Chippewas of Kettle and Stony Point First Nation
6247 Indian Lane
Kettle and Stony Point First Nation, Ontario N0N 1J1

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

14.2 Any notice set out in Article 14.1 will be presumed to have been received by the Party on the earlier of the day it was received or the fifth day after it was mailed.

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

15.0 GENERAL PROVISIONS

15.1 This Settlement Agreement is for the benefit of and is binding upon Canada and any of its ministers, officials, servants, employees, agents, successors and assigns, and upon the First Nation and its Members, and any of their respective heirs, descendants, legal representatives, successors and assigns.

15.2 This Settlement Agreement is entered into by Canada and the First Nation without any admission of fact or liability whatsoever with respect to the Claim.

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

15.4 The insertion of headings and recitals, and the provision of a table of contents, are solely for convenience and in no way modify or explain the scope or meaning of any part of this Settlement Agreement.

15.5 Words in the singular include the plural and words in the plural include the singular.

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15.6 There shall be no presumption that any ambiguity in any of the terms of this Settlement Agreement should be interpreted in favour of any Party.

15.7 The rights and obligations of the Parties to this Settlement Agreement may not be assigned or otherwise transferred without the prior consent of the First Nation, which shall be evidenced by a Band Council Resolution, and the prior written consent of Canada, such consent not to be unreasonably withheld.

15.8 This Settlement Agreement shall be governed by the applicable laws of Ontario and Canada.

15.9 This Settlement Agreement sets out the entire agreement between the Parties with respect to the Claim. There is no representation, warranty, collateral agreement, undertaking or condition affecting this Settlement Agreement, except as expressly set out herein. This Settlement Agreement supersedes and revokes all previous agreements entered into during the course of the negotiation of the Claim, whether oral or in writing between the Parties with respect to the Claim.

15.10 All references in this Settlement Agreement to statutes and regulations of Canada shall include, unless a contrary intention is expressed, any such statute or regulation as the same may be amended, re-enacted or replaced from time to time.

15.11 The Parties shall in good faith do such things, execute such further documents, and take such further measures as may be necessary to carry out and implement the terms, conditions, intent and meaning of this Settlement Agreement.

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IN WITNESS WHEREOF the Minister of Crown-Indigenous Relations, on behalf of Her Majesty The Queen in Right of Canada, and the Council of the First Nation, on behalf of the First Nation, have executed this Settlement Agreement on the dates indicated below.

Signed on behalf of the First Nation at _____by the Council of the First Nation in the presence of:

Signature: _____

Name of Witness: _____

Address: _____

As to all Signatures

Date: _____

Per:_____
Chief

Per:_____
Councillor

Per:_____
Councillor

Per:_____
Councillor

Per:_____
Councillor

Per:_____
Councillor

Per:_____
Councillor

Per:_____
Councillor

Per:_____
Councillor

SIGNED on behalf of HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented by the Minister of Crown-Indigenous Relations, in the presence of:

Signature: _____

Name of Witness: _____

Address: _____

Date: _____

_____
Minister of Crown-Indigenous Relations

CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

SCHEDULE 1
SOLICITOR'S CERTIFICATE

I, Autumn L Johnson, of the City of Sarnia, in the Province of Ontario, Barrister & Solicitor, do hereby certify:

1. THAT I am a member in good standing of the Law Society of Ontario and am qualified to practice law in the Province of Ontario;

2. THAT I was retained in my professional capacity to provide independent legal advice to the First Nation with respect to the Claim, including the terms of settlement of the Claim and the preparation, execution and implementation of the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement, executed by the First Nation on the ___ day of _____, 20___;

3. THAT I have advised the Council as to the legal nature and effect upon the First Nation and its Members of the Settlement Agreement and the implementation of the Settlement Agreement including, without limitation, the legal implications arising from the management, disbursement and use of the Compensation Balance where the deposit of the Compensation Balance is into an account managed by the First Nation with a Financial Institution rather than into an account managed by Canada for the First Nation in accordance with the *Indian Act* and, where applicable, the potential rates of return (the "Legal Issues");

4. THAT I participated in the following Information Meeting(s) called for the purpose of explaining to the Members the Settlement Agreement;

Location of Meeting(s):	Date(s) and Time(s):
_____	_____
_____	_____
_____	_____

5. THAT I made a presentation at the Information Meeting(s) to the Members who participated regarding the Legal Issues and answered any relevant legal questions raised at the Information Meeting(s);

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6. THAT I was also available, as needed, to answer Members' questions, including any Members who did not participate in the Information Meeting, about the Legal Issues.

Witness' Signature: _____)
)
Name of Witness: _____)
)
Address: _____)
)
)
Date: _____)

_____
Autumn L Johnson
Barrister and Solicitor

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CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

SCHEDULE 2
BALLOT QUESTION

As a Voter of the First Nation, do you:

(a) **agree** to all of the terms and conditions of the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement initialed by the negotiators for the First Nation and Canada, which settles and releases the Claim;

and

(b) **authorize and direct** the Council of the First Nation to sign all documents and do everything necessary to give effect to Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement?

YES	NO
☐	☐

Mark this Ballot by placing an **"X"**, check mark or other mark, under the word "YES" or "NO" within the appropriate box, clearly indicating your response to the question asked, but without identifying yourself.

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CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

SCHEDULE 3
FINANCIAL ADVISOR'S CERTIFICATE

I, Guillaume Vadeboncoeur, of Ottawa, Ontario, do hereby certify:

1. THAT I am a partner at Deloitte Forensic as the national lead for forensic services to First Nations, including for specific claims and trust advisory services. Specialties include forensic accounting and investigation, including litigation support, loss quantification, fraud investigations and other special reviews, as well as Aboriginal client services in the area of governance, wealth management, trust advisory and administration, specific claims consulting, and economic development.

2. THAT I was retained in my professional capacity to provide independent financial advice to the First Nation with respect to the terms of the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement, including dealing with the deposit of the Compensation Balance and the subsequent safe custody, preservation of capital, management, investment, disbursement and use of the Compensation Balance.

3. THAT I have provided independent financial advice to the Council with respect to the financial aspects of the Settlement Agreement, including, without limitation, the financial considerations for the First Nation and its Members arising in relation to the implementation of the Settlement Agreement, the management, disbursement and use of the Compensation Balance, and the deposit of the Compensation Balance into an account managed by the First Nation with a Financial Institution rather than into an account managed by Canada for the First Nation in accordance with the *Indian Act*, and, where applicable, the potential rates of return and associated investment risks (the "Financial Issues").

4. THAT I participated in the following Information Meeting(s) called for the purpose of explaining to the Members the Settlement Agreement:

Location of Meeting(s):	Date(s) and Time(s):
_____	_____
_____	_____
_____	_____

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5. THAT I made a presentation at the Information Meeting(s) to the Members who participated regarding the Financial Issues and answered any relevant financial questions raised at the Information Meeting to the best of my professional ability.

6. THAT I was also available, as needed, to answer questions that Members had, including any Members who did not participate in the Information Meeting, about the Financial Issues and did so to the best of my professional ability.

Witness' Signature: _____)
)
Name of Witness: _____)
)
Address: _____)
)
)
Date: _____)

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CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

SCHEDULE 4
FORM OF BAND COUNCIL RESOLUTION FOR PAYMENT & DIRECTION TO PAY

The First Nation hereby authorizes and directs Canada to pay the Compensation Balance set out in Article 2.0 of the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement in accordance with the Direction to Pay attached hereto.

The First Nation, by its Council:

EXAMPLE ONLY – DO NOT SIGN _____ _____
Chief DATE

EXAMPLE ONLY – DO NOT SIGN _____ _____
Councillor DATE

EXAMPLE ONLY – DO NOT SIGN _____ _____
Councillor DATE

[NOTE: the number of signature lines should equal the number of council members, and each council member's name should be typed in under each signature line. Ideally, every council member should sign; however, if this is not possible, at least a majority of the council should sign]

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DIRECTION TO PAY

TO CANADA:

Pursuant to the terms of the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement, the First Nation hereby directs Canada to pay any and all amounts owing to the First Nation under the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement as follows:

NAME OF FINANCIAL INSTITUTION: _____

ADDRESS OF FINANCIAL INSTITUTION: _____

_____

NAME OF ACCOUNT HOLDER: _____

TRANSIT NUMBER OF FINANCIAL INSTITUTION: _____

ACCOUNT NUMBER: _____

AND THIS SHALL BE YOUR CLEAR AND IRREVOCABLE DIRECTION TO PAY.

The First Nation, by its Council:

EXAMPLE ONLY – DO NOT SIGN	_____
Chief	DATE
EXAMPLE ONLY – DO NOT SIGN	_____
Councillor	DATE
EXAMPLE ONLY – DO NOT SIGN	_____
Councillor	DATE

[NOTE: the number of signature lines should equal the number of council members, and each council member's name should be typed in under each signature line. Ideally, every council member should sign; however, if this is not possible, at least a majority of the council should sign]

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CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

SCHEDULE 5
FORM OF BAND COUNCIL RESOLUTION

EXAMPLE ONLY

WHEREAS the First Nation wishes to enter into the Chippewas of Kettle and Stony Point First Nation Clench Defalcation Specific Claim Settlement Agreement (the "Settlement Agreement") with Her Majesty the Queen in Right of Canada.

AND WHEREAS the Council of the First Nation has held an Information Meeting for its Members on (date, time and location) to explain the terms and conditions of the proposed Settlement Agreement.

AND WHEREAS legal counsel for the First Nation explained the legal nature and effect of entering into the Settlement Agreement to the Council and to the Members who participated in the Information Meeting.

AND WHEREAS a financial advisor for the First Nation provided independent financial advice in respect of the Settlement Agreement to the Council and to the Members who participated in the Information Meeting.

AND WHEREAS a Ratification Vote conducted in accordance with the Settlement Agreement's Voting Guidelines was held wherein (insert number) Voters voted, representing (insert percentage of the total number of Voters that is at least 25% plus one of the Voters) ___% of the total number of Voters, and of those who voted, (insert number) Voters voted in favour of the Settlement Agreement, representing the majority of those who voted.

BE IT RESOLVED:

1. THAT the First Nation hereby approves and assents to the terms and conditions of the Settlement Agreement initialed by the Parties, which settles the Claim as defined in the Settlement Agreement.

2. THAT the Council hereby agrees to execute the Settlement Agreement on behalf of the First Nation.

The First Nation, by its Council:

EXAMPLE ONLY – DO NOT SIGN	
Chief	DATE
EXAMPLE ONLY – DO NOT SIGN	
Councillor	DATE

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CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

SCHEDULE 6
APPORTIONMENT AGREEMENT

FIRST NATION COUNCIL RESOLUTION

REFERENCE NO.	DATE OF DULY CONVENED MEETING: (YEAR/MONTH/DAY)	PROVINCE OF ONTARIO

THE CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION DO HEREBY RESOLVE:

WHEREAS The Chippewas of Kettle & Stony Point First Nation ("CKPSFN") and Aamjiwnaang First Nation ("AFN") (collectively the "First Nations") each submitted separate specific claims to the Government of Canada in 2007 and 2008, respectively, regarding the misappropriation of land sale funds by Indian Agent Joseph B. Clench (the "Clench Defalcation Specific Claims" or simply the "Clench Claims");

AND WHEREAS on July 31, 2015, the Government of Canada presented a Global Settlement Offer to both AFN and KSPFN which included financial compensation in the amount of CAD $28,174,249.00 (the "Settlement Funds"), plus contribution towards reasonable legal, negotiation and ratification costs incurred by the First Nations (together the "Global Settlement Offer");

AND WHEREAS Canada presented the Global Settlement Offer to the First Nations as a means to fully and finally settle the Clench Claims with both First Nations;

AND WHEREAS as a condition of settlement with Canada, the apportionment of the Settlement Funds as between the First Nations must be determined and agreed upon by both First Nations, and any final settlement agreement between Canada and the First Nations must ultimately be ratified by both First Nations;

AND WHEREAS on April 16, 2019, the First Nations were advised by Ben Johnson (Negotiator, Specific Claims Branch) that Canada would seek a new financial mandate for a higher amount of financial compensation;

AND WHEREAS Canada also advised that once the First Nations reach an agreement on how the Settlement Funds will be apportioned between the two communities, Canada would deliver its revised Global Settlement Offer to the First Nations, including a revised dollar amount for financial compensation;

AND WHEREAS the First Nations met in London, Ontario between May 29-31, 2019, inclusive, to discuss and attempt to reach an agreement on the apportionment issue;

AND WHEREAS pursuant to these meetings, the First Nations have executed a Final Settlement Agreement dated May 31, 2019, signed by the elected Chiefs of each First Nation, setting out the agreed-upon apportionment of the Settlement Funds as between the First Nations;

NOW THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to the Final Settlement Agreement between the First Nations dated May 31, 2019 (enclosed as a Schedule hereto) the First Nations have agreed to apportion the Settlement Funds on the following basis:
(a) Fifty-two percent (52%) of the Settlement Funds shall be apportioned to Aamjiwnaang First Nation; and
(b) Forty-eight percent (48%) of the Settlement Funds shall be apportioned to the Chippewas of Kettle and Stony Point First Nation.

2. The above-noted agreement on apportionment applies to the amount of financial compensation to be provided by Canada (the "Settlement Funds") including any revised amounts of financial compensation put forward by Canada pursuant to a new or revised financial mandate, plus any interest which has accrued thereon;

3. For greater clarity, Canada's additional contribution to each First Nation towards the reasonable legal, negotiation and ratification costs incurred by the First Nations shall be negotiated separately with each First Nation, and is not subject to the above-noted agreement

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on apportionment;

4. The above-noted agreement on apportionment, as well as this Band Council Resolution, are confidential and subject to settlement privilege, and are without prejudice to any other claim or claims of the First Nations with respect to any other lands, waters or other matters related to the interests of the First Nations, and shall not be admissible in any court proceeding or any other contested proceeding.

QUORUM 5

	(CHIEF)	
(COUNCILLOR)	(COUNCILLOR)	(COUNCILLOR)
(COUNCILLOR)	(COUNCILLOR)	(COUNCILLOR)
(COUNCILLOR)	(COUNCILLOR)	(COUNCILLOR)

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FINAL SETTLEMENT AGREEMENT
Clench Defalcation Specific Claim

May 31, 2019

BETWEEN

AAMJIWNAANG FIRST NATION

- and -

KETTLE AND STONY POINT FIRST NATION

Pursuant to a jointly agreed upon mediation between Aamjiwnaang First Nation ("AFN") and Kettle and Stony Point First Nation ("KSPFN") (collectively the "Parties") conducted between **May 29-31, 2019** in London, Ontario with Michael Coyle ADR Solutions Inc. ("ADR Solutions") acting as mediator, the Parties hereby agree to the following terms (hereinafter referred to as the "Final Settlement Agreement"):

1. This is to acknowledge that the Parties have reached a Final Settlement Agreement regarding the apportionment of the monies to be provided by the Federal Government in full satisfaction of the Clench Defalcation Specific Claim;

2. The Final Settlement Agreement follows a mediation process which was guided by Anishinaabeg principles of equality, equity, sharing (Daawed), and Inaakinigewin;

3. This Final Settlement Agreement was reached subsequent to a sharing and recognition of the joint history of the Parties, the strong bond that exists between the Parties, and the need to heal. The Parties recognize the importance of maintaining a healthy relationship between them;

4. The Parties agree that the monies to be provided to the Parties by the Federal Government in full satisfaction of the Clench Defalcation Specific Claim shall be apportioned as follows:

    (a) Fifty-two percent (52%) shall be apportioned to Aamjiwnaang First Nation; and

    (b) Forty-eight percent (48%) shall be apportioned to Kettle and Stony Point First Nation.

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5. The Parties understand and agree that apart from the terms contained in this Final Settlement Agreement, that the mediation discussions, materials, correspondence, and any draft resolutions shall be held in strict confidence, and shall be without prejudice to any position(s) that may be advanced by the Parties in any future claim, proceeding, or action, and shall not be distributed to the public;

6. The Parties also acknowledge and agree that the Final Settlement Agreement and the terms of the Final Settlement Agreement shall not be admissible in any court proceeding or any other contested proceeding;

7. This Final Settlement Agreement is without prejudice to any other claim(s) of the Parties with respect to any other lands, waters or other matters related to the interests of the Parties.

The Parties hereby agree to the terms of this Final Settlement Agreement as of the date first above-written:

CHIEF CHRIS PLAIN
on behalf of Aamjiwnaang First Nation

CHIEF JASON HENRY
on behalf of Kettle and Stony Point First Nation

WITNESS
MICHAEL COYLE, PRESIDENT
ADR Solutions Inc.

CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION
CLENCH DEFALCATION SPECIFIC CLAIM
SETTLEMENT AGREEMENT

SCHEDULE 7
VOTING GUIDELINES

Anishinaabeg of Kettle and Stony Point First Nation Ratification Voting Procedures

Dated September 8, 2020

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THESE procedures will be titled the, "Anishinaabeg of Kettle and Stony Point First Nation Ratification Voting Procedures" and these procedures will apply to all issues that require the approval of the electors of the Kettle and Stony Point First Nation.

AND WHEREAS it is deemed necessary to establish ratification voting procedures that are inclusive to the needs of the Kettle and Stony Point First Nation;

THEREFORE, the Anishinaabeg of Kettle and Stony Point First Nation does hereby enact as follows:

1. INTERPRETATION

In these procedures:

1. "Community Emergency" means a situation or an impending situation that constitutes a danger of major proportions to life or property. It can be caused by forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise.

2. "Council" means the duly elected Chief and Councillors for the Kettle and Stony Point First Nation;

3. "Counting Clerk" is a person appointed by the ratification officer to assist in the counting of the votes after the poll has closed;

4. "Days" means all days including Saturdays, Sundays and any statutory holidays;

5. "Deputy Ratification Officer" means the person appointed by the ratification officer for the purposes of a ratification vote;

6. "Electronic Voting Platform" means a web-based database where cast electronic ballots are secured and stored;

7. "Electronic Voting Method" means casting an electronic ballot via internet voting;

8. "First Nation" means the geographical area and populace over which the duly elected Council has authority;

9. "Head Deputy Ratification Officer" means the person appointed by the ratification officer for the purposes of a ratification vote;

10. "Identifiable Legal Background" means an occupational background as a lawyer or ex-lawyer, justice of the peace or ex-justice of the peace, police officer or ex-police officer, paralegal or ex-paralegal, judge or ex-judge, or law student;

11. "Member" means a person whose name appears on the membership list held by the Kettle and Stony Point First Nation;

12. "Member Number" means the number assigned to each member to assist in identifying the member. A member number is also known as a band number or registry number;

13. "Non-Partisan" means free from affiliation or bias of the subject of the vote, whether expressed through words or actions or otherwise showing opinion;

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14. "Notice of Ratification Vote" is a notice that states the subject of the ratification vote, the date and time of the ratification vote, the location of the polling place, and the name and telephone number of the ratification officer;

15. "Procedures" means the 'Anishinaabeg of Kettle and Stony Point First Nation Ratification Voting Procedures';

16. "Ratification Vote Day" means the day the poll is held for a ratification vote;

17. "Ratification Vote" means a vote held to decide a specific question or questions;

18. "Ratification Officer" means the person appointed by the Council to conduct, oversee, and manage a ratification vote;

19. A "Voter Declaration Form" as shown in Appendix A, is a document that sets out or provides for:

    19.1 the name of an elector;

    19.2 the member number of the elector;

    19.3 a statement that the elector has read and understood the information package regarding the subject of the ratification vote and has voted freely and without compulsion; and

    19.4 the name, address and telephone number of a witness to the signature of the elector.

2. HOLDING OF A RATIFICATION VOTE

1. The Council will order that a ratification vote be held to determine if electors are in favour of any matter that is deemed by the Council to be of significance and of general importance to the community.

3. QUALIFICATIONS OF ELECTORS

1. An eligible elector is:

    1.1 a member of the Kettle and Stony Point First Nation; and

    1.2 at least 18 years of age on ratification vote day.

4. APPOINTMENTS AND DUTIES OF RATIFICATION STAFF

1. The ratification officer will be appointed by the Council and will be responsible for conducting the ratification vote.

2. The ratification officer will be responsible for utilizing and implementing all standard forms to be used in a ratification vote.

3. The ratification officer will be responsible for appointing, at least 40 days before ratification vote date, the head deputy ratification officer and the deputy ratification officer(s) to assist in the duties assigned by the ratification officer.

4. The ratification officer, the head deputy ratification officer, the deputy ratification officers and the counting clerks will be required to swear an Oath of Confidentiality.

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5. Where the ratification officer can no longer act in the capacity of ratification officer, the head deputy ratification officer will assume the position of ratification officer.

6. All ratification officers will remain non-partisan during the vote and appeal period.

5. QUALIFICATIONS OF RATIFICATION STAFF

1. A person who qualifies to be a ratification officer, a head deputy ratification officer or a deputy ratification officer:

   1.1 is at least 18 years of age;

   1.2 has never been disqualified from being a ratification officer, head deputy ratification officer or deputy ratification officer in a ratification vote; and

   1.3 has received ratification vote training.

6. VOTERS LIST

1. At least 60 days before ratification vote day, the Council will provide the ratification officer with the Kettle and Stony Point voters list.

2. The voters list will:

   2.1 include the full names of all Kettle and Stony Point electors;

   2.2 include the member number of each elector, and

   2.3 be in alphabetical order, by family name.

3. The ratification officer may revise the voters list upon receipt of documentary proof showing that:

   3.1 the name of an elector is omitted from the list;

   3.2 the name of an elector is incorrectly set out in the list;

   3.3 the elector is deceased; or

   3.4 the name of a person not qualified to be an elector is included in the list.

7. ADDRESSES

1. At least 60 days before ratification vote day, the Council will provide the ratification officer with a list of the last known addresses of all electors who do not reside on the First Nation.

2. A document that has been mailed to an elector to the last known address given, will be considered to have been properly mailed.

8. INFORMATION MEETING

1. Before the day on which a ratification vote is to be held, the ratification officer will ensure that at least one information meeting is held to provide electors with information regarding the subject of the ratification vote.

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2. The information meeting will be held at least twenty (20) days before ratification vote day.

9. NOTICE OF RATIFICATION VOTE

1. At least 40 days before ratification vote day, the ratification officer will post in at least one noticeable place on the First Nation:

   1.1 a notice of ratification vote;

   1.2 the voters list; and

   1.3 an information package regarding the subject of the vote.

2. At least 40 days before ratification vote day, the ratification officer will post on the official Kettle and Stony Point First Nation website and will mail or deliver to every household located on the First Nation:

   2.1 a notice of ratification vote, and

   2.2 an information package regarding the subject of the ratification vote.

10. VOTING PACKAGES AND BALLOTS

1. The ratification officer will prepare sufficient ballots stating the question to be submitted to the electors.

2. At least 40 days before ratification vote day, the ratification officer will mail or provide to every elector who does not reside on the First Nation and for whom a last known address has been given or to any elector who has requested, a voting package consisting of:

   2.1 a ballot, initialled on the back by the ratification officer;

   2.2 an outer, return envelope, pre-addressed to the ratification officer;

   2.3 an inner envelope with a voter declaration form, known as the mail-in ballot envelope;

   2.4 a letter of instruction regarding voting by mail-in ballot;

   2.5 a notice of ratification vote;

   2.6 a statement advising the elector that he or she may vote through electronic voting method or in person at the polling place on ratification vote day in lieu of voting by mail-in ballot; and

   2.7 an information package regarding the subject of the ratification vote.

3. An elector who resides on the First Nation or an elector who does not reside on the First Nation and did not receive a voting package, may request to the ratification officer that one be sent by mail no later than five days before vote day.

4. The ratification officer will indicate on the voters list, next to the name of an elector to whom a voting package was mailed or otherwise provided, a mark to this effect, and keep record of the date and the address to which the voting package was mailed or provided.

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11. VOTING BY MAIL-IN

1. An elector may vote by mail-in ballot by:

   1.1 marking the ballot by placing a cross or other mark that clearly indicates the elector's response to the question stated on the ballot but does not identify the elector;

   1.2 folding the ballot in a manner that conceals the question and any marks but exposes the ratification officer's initials on the back;

   1.3 placing the folded ballot in the mail-in ballot envelope and sealing the envelope;

   1.4 completing and signing the voter declaration form located on the envelope in the presence of a witness who is at least 18 years of age;

   1.5 placing the mail-in ballot envelope into the outer pre-addressed return envelope and sealing the outer return envelope; and

   1.6 mailing or delivering the mail-in ballot to the ratification officer before the close of the poll on ratification vote day.

2. All mail-in ballot envelopes received by the ratification officer will remain sealed until the counting of the votes on ratification vote day.

12. VOTER ASSISTANCE (mail-in)

1. Where an elector cannot vote in the manner set out in section 11, he or she may enlist the assistance of any person who is at least 18 years of age to mark his or her ballot and complete and sign the voter declaration form.

2. The person referred to in subsection 12.1 must attest by declaration that the elector is the person whose name is set out in the declaration and that the ballot was marked according to the directions of the elector.

3. The declaration made by a person providing assistance to an elector must also be witnessed by a person who is at least 18 years of age.

13. SPOILED BALLOTS (mail-in)

1. An elector who inadvertently dealt with his or her mail-in ballot in such a manner that it cannot be used may obtain another ballot by returning the spoiled ballot to the ratification officer.

2. Upon receipt of the spoiled ballot, the ratification officer will mark "spoiled" on the ballot and preserve it.

14. LOST BALLOTS (mail-in)

1. An elector who loses a mail-in ballot may obtain another ballot by delivering to the ratification officer a written affirmation that he or she has lost the mail-in ballot.

2. The written affirmation must be witnessed by a person who is at least 18 years of age.

3. The ratification officer will make record of all lost ballots.

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15. CAST BALLOTS (mail-in)

1. All mail-in ballot envelopes received by the ratification officer will remain sealed until the counting of the votes on ratification vote day.

2. Subject to sections 34 and 35, all mail-in ballots that are not received by the ratification officer before the time at which the poll closes on ratification vote day are void and will remain sealed and preserved.

16. ELECTRONIC VOTING

1. Each elector may cast a vote electronically.

2. No person will vote for another elector.

3. Electronic voting methods will open and close at the hours and dates specified in the notice of ratification vote.

4. In the event that an additional day for voting is established, the electronic voting methods will re-open and close at the hours and dates specified by the ratification officer.

5. Electronic voting methods may be permitted on designated voting days but are not required to remain open on ratification vote day, subject to the notice of ratification vote and subject to subsection 16.4.

6. The ratification officer will, at least 40 days before ratification vote day, send to each elector an invitation to vote by the electronic voting methods and instructions for registration and voting.

7. The contents of the electronic ballot will be the same as the mail-in ballots and the ballots used for in-person voting on ratification vote day.

8. To cast an electronic ballot, an elector will:

   8.1 enter the website address provided that will load the electronic voting website;

   8.2 follow the instructions to register to vote electronically;

   8.3 cast their ballot;

   8.4 submit the final electronic ballot; and

   8.5 be provided with confirmation that their electronic ballot has been cast.

9. Upon submission of the final electronic ballot, no changes can be made.

10. The electronic voting platform will:

    10.1 confirm that the elector is eligible to vote;

    10.2 record the name of the elector on the voters list as having registered to vote electronically;

    10.3 confirm that the elector has not previously voted;

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10.4 record on the voters list that the elector cast an electronic ballot and the date and time the electronic ballot was received;

10.5 put the electronic ballot cast by the elector into the electronic ballot box; and

10.6 send an e-mail notification to the ratification officer to confirm the elector has cast their electronic ballot.

11. Once an elector has voted electronically, they cannot vote again electronically or otherwise.

12. Where the ratification officer is notified of an incomplete electronic registration or vote, the ratification officer will make a reasonable attempt to contact the elector and offer alternative voting solutions, including mail-in ballot or voting in person.

17. ELECTRONIC VOTING PLATFORM PROTOCOL

1. The Kettle and Stony Point Council has authorized the use of electronic voting methods, with the use of an electronic voting platform service offered by an independent third-party service provider.

2. All electronic voting platforms and methods authorized by the Council will uphold the following principles:

2.1 the secrecy and confidentiality of individual votes is paramount;

2.2 the vote will be fair and non-biased;

2.3 the vote will be accessible to all electors;

2.4 the integrity of the vote will be maintained throughout the vote process;

2.5 certainty that the results of the vote reflect the votes cast; and

2.6 electors will be treated fairly and consistently.

3. The electronic voting platform will at least 40 days prior to ratification vote day, be populated with the confirmed voters and the ballot.

4. The voters list will be a live web-based list.

5. The ratification officer will make arrangements with the independent service provider for the following from the electronic voting platform:

5.1 providing daily/weekly reports and detailed activity reports;

5.2 modifying, updating and viewing the voters list;

5.3 providing the list of electors who have voted on the electronic voting platform; and

5.4 providing the summary of the vote results.

6. Individual voting results will remain secret at all times, will not be revealed and will be encrypted in such a way that it can never be revealed.

7. Automated e-mail notifications will be generated in real-time to the elector and ratification officer of all and any activity associated with the electronic voting platform.

8. All electronic data will be deleted and wiped at the close of the appeal period, or if an appeal is launched, as soon as possible following a decision of the Appeal Board.

9. At the official close of electronic voting methods, the option to vote electronically is removed as an option from the electronic voting platform.

10. Any elector who is in the electronic polling station, or in the process of voting when the electronic poll has officially closed, will be ejected from the vote sequence.

11. After the close of the electronic voting site, the ratification officer will cause the electronic voting platform to seal the electronic ballot box and will obtain the results.

18. CONDUCT

1. No person will be permitted to conduct himself or herself in a manner which may interfere with the electoral process.

2. No person will engage in any activity that serves as a detriment to the voting process or which inhibits the rights of another to vote.

3. The ratification officer may appoint a peace officer to maintain order in the polling place.

4. Notwithstanding any of the in-person voting procedures outlined herein, the ratification officer, in accordance with advice of public health officials, retains discretion on whether and how to conduct in-person voting and may amend these procedures as needed for the health and safety of the Voters, of those conducting the vote, and of the community at large.

19. POLLING STATION

1. The ratification officer will:

   1.1 establish a polling place on the Kettle and Stony Point First Nation;

   1.2 procure at least one ballot box for the polling place;

   1.3 provide a sufficient number of ballots for the purpose of voting;

   1.4 provide materials for marking the ballots, and a sufficient number of directions-for-voting as may be required; and

   1.5 provide compartments in the polling place where electors can mark their ballot free from observation by any other person.

20. POLLING HOURS

1. The polling place will be kept open from the hours of 9:00 a.m., local time, until 8:00 p.m. local time, on ratification vote day.

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2. The ratification officer will immediately before the opening of the poll:

   2.1 open the ballot boxes and call as many persons present to witness that the boxes are empty;

   2.2 properly seal the boxes to prevent them from being opened without breaking the seal;

   2.3 place the boxes in full view; and

   2.4 ensure that the seals are not broken during the time appointed for taking the vote.

21. OPENING OF THE POLL

1. The ratification officer will declare the poll open at 9:00 a.m. on ratification vote day.

2. The only persons permitted in the room while the poll is being held are:

   2.1 the ratification officer;

   2.2 the head deputy ratification officer;

   2.3 the deputy ratification officers;

   2.4 the counting clerks;

   2.5 the peace officers;

   2.6 the electors who are casting their ballots; and

   2.7 any other person authorized by the ratification officer.

3. After an elector has cast his or her ballot and left the polling place, he or she will not be permitted to re-enter the polling place.

22. SECRECY OF VOTING

1. Every person in attendance at the polling place or at the counting of the votes will maintain and aid in maintaining the secrecy of the vote.

2. No person will interfere or attempt to interfere with an elector marking his or her ballots, or attempt to obtain at the polling place information as to how an elector is about to vote or has voted.

3. While an elector is in a voting compartment for the purpose of marking his or her ballot, no other person will, except as provided in section 24, be allowed in the same compartment or be in any position from which he or she can see the manner in which such elector marks his or her ballot.

23. VOTING AT THE POLL

1. Subject to subsection 23.8, the ratification officer will, if the person's name is set out in the voters list, provide the person with a ballot.

2. An elector whose name does not appear on the voters list may vote at an election if he or she presents documentary proof that such person is qualified to be an elector.

3. The ratification officer will place a mark on the voters list opposite the name of every elector receiving a ballot.

4. The ratification officer will place his or her initials on a ballot give it to the elector and when requested to do so, explain the manner of the voting.

5. After receiving the ballot, the elector will:

   5.1 immediately proceed to the voting compartment;

   5.2 mark the ballot by placing a cross or other mark that clearly indicates the elector's response to the question stated on the ballot;

   5.3 fold the ballot in a manner that conceals the question and any marks, but exposes the initials of the ratification officer on the back of the ballot; and

   5.4 deliver the completed ballot to the ratification officer.

6. After receiving the completed ballot from the elector, the ratification officer will, without unfolding it, verify the initials on the back and deposit it into the ballot box in the presence of the elector.

7. If, after verifying the initials on the back of the ballot, the ratification officer may allow the elector to deposit the ballot into the ballot box himself or herself in the presence of the ratification officer.

8. Where it is shown that an elector has already voted electronically, such elector will not be given a ballot and permitted to vote at the poll.

24. VOTER ASSISTANCE (at the poll)

1. At the request of any elector who is unable to vote in the manner set out in section 23.5, the ratification officer will assist the elector by marking his or her ballot in the manner directed by the elector and if further requested by the elector, such assistance will be in the presence of another person who is at least 18 years of age and chosen by the elector.

2. The ratification officer will indicate on the voters list opposite the name of such elector stated in subsection 24.1 that the elector was assisted.

25. SPOILED BALLOTS (at the poll)

1. An elector who inadvertently dealt with his or her ballot in such a manner that it cannot be used, may obtain another ballot by returning the spoiled ballot to the ratification officer.

2. Upon receipt of the spoiled ballot, the ratification officer will mark "spoiled" on the back of the ballot and preserve it.

26. DECLINED BALLOTS (at the poll)

1. Any person who has received a ballot and who:

   1.1 leaves the polling place without delivering their ballot to the ratification officer in the manner provided; or

1.2 refuses to vote,

will forfeit his or her right to vote at the ratification vote, and the ratification officer will mark "declined" on the ballot and preserve it.

2. If the voter, after receiving a ballot, leaves the polling place with the ballot, the Ratification Officer will deem the right to vote as being forfeited and will record it as such beside the name of the elector on the voters list.

27. CLOSE OF THE POLL

1. At 8:00 p.m. on ratification vote day, the ratification officer will declare the poll to be closed.

2. Every elector who is inside the polling place at the time fixed for closing the poll will be entitled to vote.

3. The ratification office will ensure that the electronic voting poll is sealed and closed in accordance with subsection 17.11.

28. POSTPONING THE COUNTING OF THE VOTES

1. The ratification officer may, under mitigating circumstances, postpone the counting of the votes.

29 COUNTING OF THE VOTES

1. During the counting of the votes, the only persons permitted in the room are:

1.1 the ratification officer;

1.2 the head deputy ratification officer;

1.3 the deputy ratification officers;

1.4 the counting clerks;

1.5 any peace officers; and

1.6 any other person authorized by the ratification officer.

30. REJECTED MAIL-IN BALLOTS/ REJECTED BALLOTS

1. As soon as practicable after the close of the poll, the ratification officer will, in the presence of all other persons in the room, examine each mail-in ballot envelope and will reject the mail-in ballot contained therein if:

1.1 the voter declaration form which is printed on the mail-in ballot envelope is not signed or not witnessed;

1.2 the voter declaration form does not clearly indicate the elector's name;

1.3 the name of the elector set out in voter declaration form is not on the voters list; or

1.4 the voters list shows that the elector has already voted; or

1.5 in any other case:

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1.5.1 indicate on the voters list opposite the name of the elector set out in the voter declaration form that he or she cast a ballot;

1.5.2 open the mail-in ballot envelope and remove the ballot; and

1.5.3 without unfolding the ballot, place it in the ballot box.

1.6 If a ballot is rejected for reasons stated in subsection 30.1, then the mail-in ballot envelope will remain sealed and preserved.

2. The ratification officer will reject a ballot:

2.1 that has not been supplied by the ratification officer;

2.2 on which more votes are cast than the number of votes required;

2.3 which contains marks by which the elector can be identified;

2.4 which contains any other marking, word, or phrase;

2.5 which does not clearly indicate the elector's response to the question; or

2.6 which does not contain votes.

3. The ratification officer will mark on the back of a ballot that has been rejected, the word "rejected" and preserve it.

31. COUNTING/TALLYING

1. After the mail-in ballots have been deposited into the ballot box, the ratification officer will, in the presence of all other persons in the room, open the ballot box and,

1.1 remove the ballots from the ballot box and examine them for the ratification officer's initials; and

1.2 count the votes given in favour of and against the question submitted in the ratification vote, except for ballots as stated in section 30.2.

2. If a ballot found in the box does not contain the ratification officer's initials on the back, the ratification officer may still accept the ballot if he or she is satisfied that it is one that the ratification officer provided.

32. TIE-BREAKING

1. Where there is an equal number of votes cast and counted for each answer asked on the ballot (a tie), the Ratification Officer will:

1.1 determine the tie-breaking result by marking the choices (ie. YES, NO) on separate papers, folding the papers and placing them in a container; and

1.2 without looking, choose from the container one paper and call out the choice (ie. YES,

NO) appearing on it. This will be the tie-breaking vote cast to determine the tie-breaking result.

33. RESULTS/ REPORTING

1. Within ten (10) days after ratification vote day, the ratification officer will prepare a statement of the votes outlining the number of votes cast in favour and not in favour of the question submitted in the ratification vote and the number of rejected ballots, and

1.1 post this statement in at least one noticeable place on the First Nation;

1.2 mail this statement to every elector who does not reside on the First Nation and for whom a last known address is given;

1.3 mail or deliver this statement to every household located on the First Nation; and

1.4 post this statement on the First Nation website and on the electronic voting site.

2. The ratification officer will provide the Council with one copy of the statement and preserve another.

34. APPEALS

1. The Appeal Board will consist of at least 3 members as follows:

1.1 one person with an identifiable legal background; and

1.2 at least two members of the Chippewas of Kettle & Stony Point First Nation.

2. At least 25 days before ratification vote day, the Council will select the members of the Appeal Board in accordance with subsection 34.1.

3. Within 7 days after ratification vote day, any elector, who has cast a vote at the ratification vote or who was denied his or her right to vote and who believes that,

3.1 there was a corrupt practice in connection with the ratification vote, or

3.2 there was a violation of the Procedures that might have affected the results of the vote,

may file an appeal by forwarding by registered mail or by delivering in person to the Appeal Board particulars thereof duly verified by affidavit.

4. If an appeal is filed, the Appeal Board will, within 20 days of receiving the appeal, deliver in person or send by registered mail a copy of the appeal and all supporting documents to the ratification officer.

5. All particulars and documents filed in accordance with the provisions of this section will constitute and form the record.

6. The Appeal Board may, if the material that has been filed is not adequate for deciding the validity of the ratification vote complained of, conduct such further investigation into the matter as they deem necessary, in such manner as they desire.

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7. Any member of the Appeal Board may conduct such investigation.

8. Where it appears that:

   8.1 there was corrupt practice in connection with the ratification vote, or
   8.2 there was a violation of the Procedures that might have affected the results of the vote,

   the Appeal Board may set aside the ratification vote.

9. Where it appears that:

   9.1 there was no corrupt practice in connection with the ratification vote, or

   9.2 there was no violation of the Procedures that might have affected the results of the ratification vote,

   the Appeal Board will report, in writing, to the ratification officer and to the appellant in person or by registered mail.

10. The decision of the Appeal Board will be made within 40 days of receiving an appeal and will be final and binding.

35. RE-COUNTS

A re-count of the votes can only be ordered by the Appeal Board. The members of the Appeal Board will conduct a re-count.

36. DISPOSITION OF BALLOTS

The ratification officer will seal all ballots in envelopes and retain them for 45 days after ratification vote day and unless ordered by the Appeal Board, destroy all ballots 45 days after ratification vote day in the presence of at least one witness who is at least 18 years of age.

37. EXTENSION OF A VOTE/ MEASURES TO BE TAKEN

1. The ratification voting process and Ratification Vote Day can be extended if the extension is necessary,

   1.1 to prevent, mitigate or control the spread of diseases on the First Nation;

   1.2 when a community emergency has been declared; or

   1.3. when there is a community death or the funeral visitations/ service fall on ratification vote day.

2. If the ratification vote is postponed or cancelled under subsection 37.1.1.1 then,

   1.1 the Council may postpone or cancel the vote up to five days before ratification vote day;

   1.2 the Council must on the day it decides to extend the vote, call a new ratification vote date; and

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1.3 the vote cannot be extended by more than six months and must not be extended more than twice.

3. If the ratification vote is postponed under subsection 37.1.1.2 then,

1.1 the Council may postpone the vote up to ratification vote day, before the poll opens;

1.2 the Council must on the day it decides to extend the vote, call a new ratification vote date; and

1.3 the vote cannot be extended by more than 40 days and must not be extended more than twice.

4. If the ratification vote is postponed under subsection 37.1.1.3 then,

1.1 the ratification officer may postpone the vote up to one day before ratification vote day;

1.2 the ratification officer must on the day they decide to extend the vote, call a new ratification vote date; and

1.3 the vote cannot be extended for more than 14 days.

38. CANCELLATION / POSTPONEMENT OF A VOTE

1. If the vote is cancelled, the ratification officer must in the presence of two witnesses who must make a declaration that they witnessed the destruction,

1.1 destroy all election documents that contain personal information;

1.2 destroy without opening, all envelopes they have received that contain a mail-in ballot; and

1.3 cause the electronic ballot box to be emptied, deleted and closed.

2. If the vote is cancelled,

1.1 the ratification officer and any deputy ratification officers are removed from office;

1.2 any action required under these Ratification Voting Procedures to have been performed before the ratification vote is considered not to have been performed.

3. If the vote is postponed, the ratification officer, until the day on which the ratification vote is held, retain under seal all envelopes that contain a mail-in ballot they receive or have received.

39. ACOUNTABILITY

1. The ratification officer, the head deputy ratification officer and the deputy ratification officers will abide by the applicable sections of the policies and procedures outlined as they presently read and as they may be amended from time to time in:

1.1 the Chippewas of Kettle and Stony Point Employment Manual, and

1.2 the Anishinaabeg of Kettle and Stony Point First Nation Ratification Voting Procedures.

40. PENALTIES

A ratification officer, a head deputy ratification officer or a deputy ratification officer, who has deliberately violated any section of these procedures, either in whole or in part, or who has knowingly made a false statement on any forms or declarations made in accordance with these procedures or voting procedures, is guilty of an offence and may be declared no longer eligible to be a ratification officer, head deputy ratification officer or deputy ratification officer in a Kettle and Stony Point First Nation ratification vote again.

41. AMENDMENTS

1. These procedures may be amended as deemed necessary by approval of the Kettle and Stony Point First Nation Council.

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"APPENDIX A"

MAIL-IN BALLOT

VOTER DECLARATION FORM

NOTE - THIS DECLARATION MUST BE COMPLETED FULLY AND CORRECTLY OR YOUR BALLOT MAY NOT BE COUNTED

In the matter of the ratification of_____, held in accordance with the Anishinaabeg of Kettle & Stony Point First Nation Ratification Voting Procedures,

I, (print full name clearly), _____ solemnly declare that:

1. I am a member of the Kettle & Stony Point First Nation;
2. My registry number is _____ and my date of birth is _____ (if you do not know your registry number, please ensure to indicate your date of birth);
3. My residence is at (full mailing address): _____ _____.
4. I am at least 18 years of age; and
5. I do not know of any reasons why I would be disqualified from voting at this ratification vote.

I make this solemn declaration conscientiously believing it to be true and knowing that it has the same force and effect as if made under oath. I understand that it is an offence to make a false statement in this declaration.

_____ _____

Signature of Elector Date

<u>The witness below must be at least 18 years of age</u>

Declared before me (print name of witness clearly): _____

at _____ this_____ day of _____, 20 _____

(city, town/province, state)

_____ _____

Signature of Witness Telephone Number of Witness

Address of Witness _____

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