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**Schedule "A"**  
To a Memorandum of Understanding  
Between the Mohawk Council of Kahnawà:ke  
And the Kahnawà:ke Tobacco Working Group

## **KAHNAWÀ:KE TOBACCO LAW**

**RESPECTFULLY SUBMITTED**  
to the  
Kahnawà:ke Legislative Coordinating Commission  
this 17<sup>th</sup> day of Ohiari:ha/June, 2014

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## **SECTION I**

### **1. JURISDICTION**

- 1.1 We are the Kanien'kehá:ka of Kahnawà:ke. We are a community of Indigenous Peoples within the Kanien'kehá:ka Nation and the Rotinohsonnión:we.
- 1.2 Our relationship with other peoples and other governments is, and will always be, defined by the Teioháte Kaswenta – the Two Row Wampum Treaty.
- 1.3 As Indigenous Peoples, the Kanien'kehá:ka of Kahnawà:ke possess an inalienable right to self-determination.
- 1.4 Our right to self-determination has been recognized and affirmed in the Constitution of Canada and in numerous international declarations, covenants and conventions, including: United Nations Declaration on the Rights of Indigenous Peoples; United Nations Human Rights Council Resolution 2006/2; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Vienna Declaration, World Conference on Human Rights; and Convention on the Prevention and Punishment of the Crime of Genocide.
- 1.5 Our right to self-determination includes the right to maintain and promote our Kanien'kehá:ka identity including our culture, traditions, language, customs and laws.
- 1.6 Our right to self-determination also includes the right to achieve self-sufficiency through the responsible development and regulation of economic activities within the Mohawk Territory of Kahnawà:ke.
- 1.7 The cultivation, manufacture, use and trade of tobacco have always played an integral role in our culture, traditions and customs.
- 1.8 This Law is a specific manifestation of our right of self-determination and is grounded on our own unalienable jurisdiction.

## **SECTION II**

### **2. PARAMOUNTCY**

- 2.1 This Law is paramount to any other legislative act or regulation, including any act or regulation of the Parliament of Canada, the legislative assembly of any province of Canada and of any other governmental authority, touching or concerning any matter enumerated in this Law.
- 2.2 For greater certainty, commencing the date on which this Law comes into effect, certificates or other forms of authorization issued by the Commission will

supersede any licence, permit, certificate or other authorization in relation to the tobacco industry previously issued by an governmental agency or authority other than the Commission.

### **SECTION III**

#### **3. INTENT AND PURPOSE**

3.1 This Law is intended to assert the unalienable rights of the Kanien'kehá:ka of Kahnawà:ke to achieve peace, security, prosperity and self-sufficiency through sustainable economic activity and is urgently needed to counter an imminent threat by external governments to challenge these collective rights.

Comment [TDT WG1]: COMMENT #1

3.2 The purposes of this Law are:

Comment [TDT WG2]: COMMENT #2

- (a) to establish a lawful context within which all aspects of the Kahnawà:ke tobacco trade will be conducted safely, securely and in the best interests of the Kanien'kehá:ka of Kahnawà:ke;
- (b) to preserve and protect the long term commercial viability of the Kahnawà:ke tobacco trade;
- (c) to ensure the Kahnawà:ke tobacco trade continues to provide a sustainable economic base and a source of revenue to the Kanien'kehá:ka of Kahnawà:ke.

### **SECTION IV**

#### **4. SCOPE**

Comment [TDT WG3]: COMMENT #3

4.1 This Law applies to:

- (a) the Kahnawà:ke tobacco industry, as defined in this Law;
- (b) all activities related to the Kahnawà:ke tobacco industry; and
- (c) all persons and business entities situated or found within the Mohawk Territory of Kahnawà:ke.

Comment [TDT WG4]: COMMENT #4

4.2 In particular, this Law applies to:

- (a) all Brokers, Growers, Processors, Suppliers, Manufacturers, Wholesalers, Retailers and Transporters of tobacco products within the Mohawk Territory of Kahnawà:ke; and
- (b) any person or business entity that supplies goods or services to, or has a business relationship with, a Broker, Grower, Processor, Supplier,

Manufacturer, Wholesaler, Retailer and Transporter of tobacco products within the Mohawk Territory of Kahnawà:ke, including any person or business entity that is in the Territory temporarily for the purpose of conducting any of the activities to which this Law apply.

- 4.3 A Transportation certificate issued by the Commission is effective outside the Mohawk Territory of Kahnawà:ke, provided that the holder of the Transportation certificate is transporting tobacco products in compliance with the requirements of this Law.

### **GENERAL PROHIBITION**

- 4.4 Except as specifically permitted by this Law, brokering, growing, processing, supplying, manufacturing, wholesaling, retailing and transporting tobacco or tobacco products within, to or from the Mohawk Territory of Kahnawà:ke is prohibited.

### **SECTION V**

#### **5. DEFINITIONS**

- 5.1 For the purposes of this Law:

“**Broker**”, used as a verb, means to supply tobacco products to an Industry Member, usually a Manufacturer;

“**Broker**”, used as a noun, means a person who brokers tobacco products;

“**Business entity**” means a sole proprietorship, joint venture, partnership or corporation;

“**Commission**” means the Kahnawà:ke Tobacco Regulatory Commission;

“**Contribution Fee**” means the fee that is paid by holders of Manufacturing, Wholesaling or Retailing certificates to the Kahnawà:ke Community Contribution Fund in accordance with the provisions of this Law;

“**Eligible Recipient**” means a Kanien’kehá:ka of Kahnawà:ke or an organization that is recognized by the Commission as being worthy and deserving of receiving a disbursement from the Contribution Fund. For greater certainty, the Commission will only deem an external organization as being an Eligible Recipient after consultation with the Kanien’kehá:ka of Kahnawà:ke;

“**Export**” means the transportation of tobacco or tobacco products out of the Mohawk Territory of Kahnawà:ke;

“**Exporter**” means a person or business entity that exports tobacco or tobacco products;

Comment [TDT WG5]: COMMENT # 5

“**Fund**” means the Kahnawà:ke Community Contribution Fund;

“**General Commission Member**” means a Kanien’kehá:ka of Kahnawà:ke who has been duly elected to the Commission pursuant to the procedures in this Law;

“**Grow**” means to cultivate, grow and harvest tobacco;

“**Grower**” means a person or business entity that grows tobacco;

Comment [TDT WG6]: COMMENT # 6

“**Immediate family member**” means a person’s parent, spouse, child or sibling;

“**Import**” means the transportation of tobacco or tobacco products into the Mohawk Territory of Kahnawà:ke;

“**Importer**” means a person who imports tobacco or tobacco products;

“**Industry Commission Member**” means an Industry Member who has been duly elected to the Commission pursuant to the procedures in this Law;

“**Industry Member**” means:

- (a) for the purposes of the first election of Industry Commission Members, a person that is actively engaged in the Kahnawà:ke tobacco trade; and
- (b) for every subsequent election of Industry Commission Members, a person that holds a valid certificate or other form of authorization granted by the Commission;

“**Kahnawà:ke**”, “**Mohawk Territory of Kahnawà:ke**” or “**Territory**” means:

- (a) the lands under the control and jurisdiction of the Kanien'kehá:ka of Kahnawà:ke;
- (b) any and all lands that may be added to the lands now under the control and jurisdiction of the Kanien'kehá:ka of Kahnawà:ke through the negotiation and resolution of land grievances;
- (c) any and all lands that may be added to the lands now under the control and jurisdiction of the Kanien'kehá:ka of Kahnawà:ke as a result of any other means;
- (d) lands, which are returned to, Kahnawà:ke as lands within the meaning of subsection 91(24) of the *Constitution Act*, 1867;
- (e) the water and waterways under the control and jurisdiction of the Kanien'kehá:ka of Kahnawà:ke; and

(f) lands that Kahnawà:ke has not relinquished or ceded;

**“Kahnawà:ke Tobacco Association”** or **“KTA”** means the membership organization that is open to all Kanien’kehá:ka of Kahnawà:ke who are involved in the Kahnawà:ke tobacco industry;

**“Kahnawà:ke tobacco industry”** means any commercial activity carried on within, to and from the Mohawk Territory of Kahnawà:ke that touches or concerns tobacco or tobacco products;

**“Kanien’kehá:ka of Kahnawà:ke”** when used in the singular, means a person identified as a member of the by the Community of Kahnawà:ke and when used in the plural means all persons making up the Community of Kahnawà:ke;

**“Law”** means this *Kahnawà:ke Tobacco Law* and, unless otherwise specified, includes all regulations enacted pursuant to this Law;

**“Manufacture”** includes the packaging, labeling and distributing of tobacco products for sale to a Wholesaler;

**“Manufacturer”** means a person or business entity that manufacture tobacco products;

**“Partnership”** means an association of persons for the purpose of sharing the responsibility of operating a business entity;

**“Person”** means an individual human being;

**“Process”** with respect of tobacco products, means to process raw tobacco into a tobacco product;

**“Processor”** means a person or business entity that is engaged in the business of processing;

**“Regulations”** means all regulations enacted by the Commission pursuant to the Law;

**“Retail”** means to sell tobacco products to the public for consumption;

**“Retailer”** means a person or business entity that is engaged in the business of retailing;

**“Retail outlet”** means a person or business entity operating within the Mohawk Territory of Kahnawà:ke that sells tobacco products to the public for consumption;

**“Sell”** or **“sale”** means ordinary contracts of sale and exchange and includes to offer or expose for sale;

**“Supplier”** means a person or business entity that supplies tobacco products;

**Comment [TDT WG7]:** COMMENT # 7 AND COMMENT # 7b



“**Supply**” means to provide tobacco products to a person or business entity that holds a valid certificate or other form of authorization granted by the Commission;

“**Tobacco**” or “**Raw tobacco**” means a quantity of any of several plants belonging to the genus *Nicotiana*, of the nightshade family, whose leaves are prepared for smoking or chewing or as snuff;

“**Tobacco product**” means a product composed in whole or in part of tobacco, in any form in which tobacco is consumed, including loose tobacco, leaf tobacco and any extract of tobacco leaves. Without limiting the generality of the foregoing, “tobacco product” includes cigarettes, cigars, snuff and pipe tobacco;

“**Transport**” means to move, carry, convey, transfer or ship tobacco products by means of a vehicle;

“**Transporter**” means a person or business entity that is engaged in the business of transporting;

“**Wholesale**” means to sell tobacco products for the purpose of resale. For greater clarity, wholesale is the intermediate function between manufacturing and retailing;

“**Wholesaler**” means a person or business entity that wholesales tobacco products.

## SECTION VI

### 6. KAHNAWÀ:KE TOBACCO REGULATORY COMMISSION

6.1 There is established a body to be known as the Kahnawà:ke Tobacco Regulatory Commission.

6.2 The Commission will have the powers and duties provided in this Law and will administer this Law in the best interests of the Kanien'kehá:ka of Kahnawà:ke and in accordance with the highest principles of honesty, integrity and professionalism.

6.3 The Commission will function independently and autonomously from any person, group, organization or governmental body.

### GUIDING PRINCIPLES

6.4 The Commission is accountable to the Kanien'kehá:ka of Kahnawà:ke in relation to all matters enumerated in this Law.

6.5 The Commission will:

- (a) preserve and promote the self-sufficiency of the Kanien'kehá:ka of Kahnawà:ke through economic development, bearing in mind the economic

Comment [TDT WG8]: COMMENT # 8 AND COMMENT # 8b

Comment [TDT WG9]: COMMENT #2b

advantages that the tobacco industry provides to the Kanien'kehá:ka of Kahnawà:ke;

- (b) preserve and promote the specific right of the Kanien'kehá:ka of Kahnawà:ke to grow, manufacture, trade, sell, barter, purchase and transport any tobacco product that is available within the international community; and
- (c) fulfill its mandate in a manner that is fair, realistic and unbiased to all involved.

Comment [TDT WG10]: COMMENT # 9

### **STRUCTURE**

6.6 The Commission will consist of nine (9) members, in the following proportions and categories:

- (a) three (3) Kanien'kehá:ka of Kahnawà:ke who are not employed or have any financial interest in the Kahnawà:ke tobacco industry ("General Commission Members"); and
- (b) six (6) Kanien'kehá:ka of Kahnawà:ke who are Industry Members, ("Industry Commission Members"), divided into the following categories:
  - (i) two (2) Manufacturers;
  - (ii) two (2) Wholesalers; and
  - (iii) two (2) Retailers.

Comment [TDT WG11]: COMMENT # 10

### **TERM OF OFFICE**

6.7 Subject to section 6.8, Commission members will serve a term of office of two (2) years.

6.8 To ensure continuity, the Commission may stagger Commission members' terms of office in accordance with such rules and procedures as the Commission unanimously approves.

6.9 Upon expiry of a member's term of office, subject to the other provisions of this Law, the member is eligible to be re-elected for another term of office.

6.10 A Commission member is limited to two (2) consecutive terms of office.

### **ELIGIBILITY**

6.11 To be elected, or to hold office, as a General Commission Member or Industry Commission Member, a person:

- (a) must be a Kanien'kehá:ka of Kahnawà:ke who is at least twenty-one (21) years old;
- (b) must not have been convicted of an indictable or felony offence, except when the offence is in relation to his or her involvement in the tobacco industry or a full pardon has been granted;
- (c) notwithstanding paragraph 6.11(b), must not ever have been convicted of an offence related to the trafficking of narcotics or associating with a criminal organization.

6.12 In addition to the requirements set out in section 6.11:

- (a) to be elected, or to hold office, as an Industry Commission Member, a potential candidate must satisfy the definition of "Industry Member", "Manufacturer", "Wholesaler" and "Retailer" as the case may be, as provided in this Law; and
- (b) to be elected, or to hold office, as a Community Commission Member, a potential candidate must not be employed or have any financial interest in the Kahnawà:ke tobacco industry.

6.13 The Electoral Officer appointed to conduct an election will have discretion to decide whether a particular person satisfies the eligibility criteria set out in sections 6.11 and 6.12.

## **ELECTIONS**

6.14 The election of General Commission Members and of Industry Commission Members will be held on the same date, and will be conducted in accordance with the following procedures.

6.15 The first election of three (3) General Commission Members and six (6) Industry Commission Members will be held within ninety (90) days of the date that this Law comes into force and every two (2) years thereafter.

6.16 Not less than sixty (60) days prior to the date on which an election is to be conducted, the Commission, or Interim Commission in the case of the first election, will appoint an Electoral Officer who will be responsible for conducting an election of General Commission Members and Industry Commission Members in accordance with the provisions of this Law.

6.17 The Electoral Officer will, not less than forty-five (45) days prior to the date on which an election is to be conducted, provide public notice to the Kanien'kehá:ka of Kahnawà:ke:

**Comment [TDT WG12]:** COMMENT # 11 AND COMMENT # 12

- (a) informing the Kanien'kehá:ka of Kahnawà:ke of the place, date and time of the election;
- (b) inviting nominations from Kanien'kehá:ka of Kahnawà:ke for the names of persons willing and eligible to be elected to as General Commission Members; and
- (c) informing the Kanien'kehá:ka of Kahnawà:ke the names of the persons nominated for the position of Industry Commission Members and the category for which each candidate has been nominated.

6.18 Elections will be monitored and controlled by the Electoral Officer.

6.19 Within seven (7) days after the election, the Electoral Officer will publicly inform the Kanien'kehá:ka of Kahnawà:ke of the election results for General Commission Members and Industry Commission Members.

**Comment [TDT WG13]:** COMMENT # 11 AND COMMENT #12

#### **ELECTION OF GENERAL COMMISSION MEMBERS**

6.20 An unlimited number of willing and eligible persons may be nominated to be candidates for the position of General Commission Member.

6.21 Any Kanien'kehá:ka of Kahnawà:ke is eligible to vote in the election of General Commission Members.

6.22 The three (3) eligible candidates who receive the most votes will be declared to be General Commission Members.

6.23 The two (2) eligible candidates that placed fourth and fifth in the election will be considered as alternate General Commission Members and, if agreeable, will replace a General Commission Member in the event of a General Commission Member resigns or is removed from office before the expiry of his or her term.

**Comment [TDT WG14]:** COMMENT # 13

#### **ELECTION OF INDUSTRY COMMISSION MEMBERS**

6.24 An unlimited number of eligible Industry Members may be nominated for the position of Industry Commission Members.

6.25 Only Industry Members are eligible to vote in the election of Industry Commission Members.

6.26 In cases of Industry Members that operate as a partnership, only one (1) vote will be allowed per partnership.

6.27 The two (2) eligible candidates who receive the most votes in each of the three (3) categories of Industry Commission Member, will be declared to be Industry Commission Members for that category.

### **REMOVAL FROM OFFICE**

6.28 A Commission member may be removed from office prior to the expiry of his or her term of office by unanimous resolution of all other Commission members.

### **RESIGNATION**

6.29 A Commission member may resign from office prior to the expiry of his or her term of office by giving a written notice to the Commission at least thirty (30) days prior to the date on which the resignation is effective.

### **VACANCY**

6.30 In the event a Commission member is removed, resigns or is unable to continue performing his or her duties for any reason the Commission member's position will, by resolution of the Commission, be declared vacant and will be filled:

- (a) in the case of a General Commission Member, by an alternate General Commission Member;
- (b) if an alternate General Commission Member is not available to fill the vacancy, a by-election will be called for the purpose of replacing the vacating General Commission Member; and
- (c) in the case of an Industry Commission Member, a by-election will be called and will follow the same procedure as for the election of Industry Commission Members.

Comment [TDT WG15]: COMMENT # 13

### **INTERIM COMMISSION**

6.31 Until such time as a Commission is elected pursuant to the provisions of this Law, a body of three (3) persons will be appointed as an Interim Commission by the Kahnawà:ke Tobacco Association.

6.32 In addition to the specific powers and duties assigned to the Interim Commission herein, the Interim Commission will have all of the powers and duties provided by this Law to the Commission.

Comment [TDT WG16]: COMMENT # 14

### **OFFICERS**

6.33 The Commission, will, by majority vote, appoint one (1) of its members as Chairperson. The Chairperson will preside over meetings of the Commission and will ensure the Commission follows the principles and procedures provided in this Law.

- 6.34 The Commission will, by majority vote, appoint one (1) of its members as Vice-Chairperson. The Vice-Chairperson will act as Chairperson during meetings of the Commission when the Chairperson is absent or unable to act.
- 6.35 The Commission will, by majority vote, appoint two (2) of its members as Secretary and Treasurer. The Secretary and Treasurer will have such powers and duties as defined by the Commission in their appointment.
- 6.36 The Chairperson, Vice-Chairperson, Secretary and Treasurer will be considered members of Commission for all purposes under this Law.

### **QUORUM**

- 6.37 A quorum of seven (7) Commission members must be present to constitute a valid meeting, one of whom must be either the Chairperson or the Vice-Chairperson.
- 6.38 The quorum required to pass a resolution at a validly constituted meeting is a simple majority of Commission members in attendance at that meeting.
- 6.39 In the case of a tie vote of the Commission, the Chairperson will have a casting vote.
- 6.40 A quorum of the Interim Commission to conduct a validly constituted meeting and to pass a resolution is a simple majority of its members.

Comment [TDT WG17]: COMMENT # 15

### **MEETINGS**

- 6.41 The Commission will meet at the call of the Chairperson or a majority of its members.
- 6.42 For the purpose of conducting ordinary business, the Commission will meet once a week or as required.
- 6.43 The Commission will conduct monthly meetings with the Kanien'kehá:ka of Kahnawà:ke to provide information on the Commission's contributions to the Kanien'kehá:ka of Kahnawà:ke and such other matters as the Commission deems appropriate.
- 6.44 Notice of any meeting of the Commission, with particulars of the agenda, will be provided to all Commission members, not less than two (2) days prior to date of the meeting.
- 6.45 Meetings or portions of meetings of the Commission, may, at the sole discretion of the Commission, be open to the public or conducted *in camera*.

Comment [TDT WG18]: COMMENT # 16

## **REMUNERATION**

6.46 Commission Members will receive such remuneration for attending meetings as the Commission may decide.

## **CONFLICT OF INTEREST**

6.47 Industry Commission members must abstain from participating in any portion of a meeting or voting in any decision that affects the member or the member's business.

6.48 All Commission members must abstain from participating in any portion of a meeting or voting in any decision that affects an immediate family member.

6.49 The Commission will enact a mandatory Code of Ethics and Code of Conduct to be signed by, and binding upon, all Commission members.

Comment [TDT WG19]: COMMENT # 10B

## **SECTION VII**

### **7. POWERS AND DUTIES OF THE COMMISSION**

7.1 In addition to any other powers that may be provided to it in this Law, the Commission will have the power to:

- (a) grant, suspend, renew or revoke certificates or other forms of authorization in the following categories:
  - (i) Broker;
  - (ii) Grower;
  - (iii) Processor;
  - (iv) Supplier;
  - (v) Manufacturer;
  - (vi) Wholesaler;
  - (vii) Retailer;
  - (viii) Transporter;
  - (ix) and such other categories as the Commission deems necessary;
- (b) enact and administer such regulations as are authorized by this Law, including regulations that:

- (i) prescribe the form and content of applications for certificates or other forms of authorization;
  - (ii) prescribe the documents to be produced and the information to be provided by an applicant for a certificates or other forms of authorization or the renewal thereof;
  - (iii) prescribe the procedures for the processing or hearing of applications;
  - (iv) prescribe the form and content of certificates or other forms of authorization;
  - (v) prescribe the fees for granting and renewing certificates or other forms of authorization;
  - (vi) establish appropriate terms and conditions for, and monitor the use of, certificates or other forms of authorization;
  - (vii) prescribe the form and content of reports to be produced by an inspector;
  - (viii) prescribe the manner in which shipments of tobacco products are to be sealed at the point of origin and verified at the point of delivery;
  - (ix) declare a product to be tobacco or a tobacco product for the purposes of this Law;
  - (x) prescribe the procedures for hearings, reviews and appeals conducted pursuant to this Law;
  - (xi) prescribe quality standards and controls for tobacco and tobacco products;
  - (xii) prescribe employment standards for workers in the Kahnawà:ke tobacco industry;
  - (xiii) prescribe standards for health, safety, security and environmental protection in relation to the Kahnawà:ke tobacco industry and persons employed in the Kahnawà:ke tobacco industry; and
  - (xiv) any other regulation necessarily related to the Commission's mandate.
- (c) amend regulations as the Commission deems necessary;
- (d) act as liaison with comparable authorities in other jurisdictions;

**Comment [TDT WG20]:** COMMENT # 17

**Comment [TDT WG21]:** COMMENT # 10C

**Comment [TDT WG22]:** COMMENT # 18

**Comment [TDT WG23]:** COMMENT # 18B

**Comment [TDT WG24]:** COMMENT # 19

**Comment [TDT WG25]:** COMMENT # 20



- (e) hear and decide any matter concerning the use of a certificate or other form of authorization granted by the Commission.

## **SECTION VIII**

### **8. CERTIFICATES AND OTHER FORMS OF AUTHORIZATION**

- 8.1 No person or business entity is permitted to Broker, grow, process, supply, manufacture, wholesale, retail or transport tobacco or tobacco products within, to or from the Mohawk Territory of Kahnawà:ke unless that person or business entity holds a valid certificate or other form of authorization granted by the Commission.
- 8.2 To allow for this Law to be implemented in an orderly fashion, any person or business that holds a licence, permit, certificate or other authorization in relation to the tobacco industry that was issued by an agency or authority other than the Commission must relinquish the licence, permit, certificate or other authorization within six (6) months of the date this Law comes into effect, failing which that person or organization will no longer be eligible to apply for or to hold a certificate or other form of authorization from the Commission.
- 8.3 Certificate or other forms of authorization granted by the Commission may not be sold, transferred or otherwise assigned.

Comment [TDT WG26]: COMMENT # 6B

Comment [TDT WG27]: COMMENT # 6C

### **ELIGIBILITY**

- 8.4 To be eligible to apply for and hold a certificate or other form of authorization from the Commission, a person must be a natural person who is a Kanien'kehá:ka of Kahnawà:ke, over the age of twenty-one (21) years.
- 8.5 To be eligible to apply for and hold a certificate or other form of authorization from the Commission, a business entity must be wholly owned and operated by one or more Kanien'kehá:ka of Kahnawà:ke, all of whom are over the age of twenty-one (21) years.
- 8.6 Commencing six (6) months from the date on which this Law comes into effect, any person or organization that holds a licence, permit, certificate or other authorization in relation to the tobacco industry that was issued by an agency or authority other than the Commission is not eligible to apply for or hold a certificate or other form of authorization from the Commission.

Comment [TDT WG28]: COMMENT # 7C

### **APPLICATIONS**

- 8.7 The Commission may, upon receiving an application in the prescribed form and the applicable fee, grant a certificate or other form of authorization granting a person or business entity permission to conduct business as a Broker, Grower, Processor,

Supplier, Manufacturer, Wholesaler, Retailer or Transporter of tobacco products within the Mohawk Territory of Kahnawà:ke.

- 8.8 The Commission may establish a procedure that will expedite the processing of an application received from a person who, or business entity that, operated a business within the Kahnawà:ke tobacco industry prior to the enactment of this Law.

### **DECISIONS**

- 8.9 Decisions of the Commission regarding granting, denying, suspending, revoking, or amending of a certificate or other form of authorization will be in writing and include the reasons on which the decision is based.
- 8.10 Decisions of the Commission will be signed by the persons who rendered the decision and will be held in the Commission's administrative offices.
- 8.11 The Commission may review, amend or revoke any decision it has rendered when:
- (a) new information is discovered which, if it had been known in time, might have led to a different decision;
  - (b) a party was unable, for a good reason, to be heard at the time the decision was made;
  - (c) an error in the Commission's procedure could make the decision invalid.
- 8.12 If an applicant provides untruthful or misleading information to the Commission the application will be denied and the applicant will not be allowed to re-apply.

Comment [TDT WG29]: COMMENT # 21

### **HIRING PREFERENCE**

- 8.13 All holders of certificates or other form of authorization must in recruiting, training and hiring employees, give preference to qualified Kanien'kehá:ka of Kahnawà:ke in all job categories particularly management positions.

## **SECTION IX**

### **9. PRICE CONTROLS**

- 9.1 To maintain the viability, stability and profitability of the Kahnawà:ke tobacco industry, the Commission may establish the minimum and maximum prices at which:
- (a) a Grower sells raw tobacco to a Processor or Broker;

- (b) a Processor or Broker sells tobacco products to a Manufacturer;
  - (c) a Manufacturer sells tobacco products to a Wholesaler;
  - (d) a Wholesaler sells tobacco products to a Retailer or retail outlets; and
  - (e) a Retailer or retail outlet may sell tobacco products to the general public.
- 9.2 To maintain the viability, stability and profitability of the Kahnawà:ke tobacco industry, the Commission may:
- (a) define a list of tiers for the different categories of holders of certificates or other form of authorization; and
  - (b) establish the minimum and maximum fluctuation in pricing between those tiers.

### **SECTION X**

#### **10. COMMUNITY CONTRIBUTION FUND**

- 10.1 There is established a fund to be known as the Kahnawà:ke Community Contribution Fund (the “Fund”).
- 10.2 The Fund will be considered a trust fund for the benefit of the Kanien'kehá:ka of Kahnawà:ke.
- 10.3 The Commission will be the trustee of the Fund and is responsible for administering the Fund in accordance with the highest standards of honesty, integrity and professionalism.
- 10.4 The Commission will report to the Kanien'kehá:ka of Kahnawà:ke on a regular basis regarding all monies received into the Fund and disbursed from the Fund.
- 10.5 The Commission will establish and maintain an account at the Caisse Populaire Kahnawà:ke, or such other financial institution or instrument as the Commission may select, for the purpose of administering the Fund.
- 10.6 The Fund will be held and administered independently and autonomously from any person, group, organization or governmental body.

Comment [TDT WG30]: COMMENT # 20B

#### **CONTRIBUTION FEES**

- 10.7 The fees contributed to the Fund will comprise:
- (a) fees collected by the Commission for the granting or renewal of certificates or other forms of authorization (“Certification Fees”);

Comment [TDT WG31]: COMMENT # 22

Comment [TDT WG32]: COMMENT # 23

- (b) Contributions Fees, as hereinafter described; and
  - (c) fines levied and collected by the Commission.
- 10.8 Contribution Fees will be imposed on all finished tobacco products distributed within the Mohawk Territory of Kahnawà:ke, including tobacco products that are imported into and exported from the Mohawk Territory of Kahnawà:ke.
- 10.9 The appropriate Contribution Fee will be paid by a Manufacturer, Wholesaler or Retailer upon placing his or her order for Contribution Stamps to be affixed to all tobacco products.
- 10.10 All Certification Fees and Contribution Fees collected by the Commission will be deposited into the Fund and will be disbursed in accordance with the following priorities:
- (a) to pay the operational and administrative costs of the Commission;
  - (b) to establish a fund to assert and, if necessary, defend this Law;
  - (c) to distribute to Eligible Recipients.

Comment [TDT WG33]: COMMENT # 24

### **CONTRIBUTION STAMPS**

- 10.11 Evidence that the appropriate Contribution Fee has been paid on tobacco products will be reflected by the affixation of a Contribution Stamp on all tobacco products imported, exported or manufactured within, from or to Mohawk Territory of Kahnawà:ke.
- 10.12 The Commission will design and administer the distribution of Contributions Stamps.
- 10.13 The Commission will issue a Contribution Stamp only when payment of the appropriate Contribution Fee has been received or arrangements for payment, satisfactory to the Commission, have been made
- 10.14 The Commission will establish rules and procedures to ensure that Contribution Stamps are properly issued and affixed to tobacco products prior to importation, exportation, distribution or sale of the tobacco product within, to or from Mohawk Territory of Kahnawà:ke.
- 10.15 Tobacco products that do not have the appropriate Contribution Stamp affixed may not be imported, exported, distributed or sold within, from or to the Mohawk Territory of Kahnawà:ke.

## **DISBURSEMENTS FROM THE FUND TO ELIGIBLE RECIPIENTS**

10.16 Subject to the provisions of this Law, the Commission will decide when, to whom and in what amounts monies from the Fund will be disbursed to Eligible Recipients.

Comment [TDT WG34]: COMMENT # 25

10.17 The Commission will establish specific criteria that will be used to determine whether a person or organization qualifies as an Eligible Recipient and will prepare the appropriate forms to be used by Eligible Recipients to apply for a disbursement from the Fund.

Comment [TDT WG35]: COMMENT # 24B

## **SECTION XI**

### **11. ADMINISTRATION**

11.1 The Commission will employ the inspectors, administration and support staff and will retain the professional assistance that the Commission requires to fulfill its mandate.

Comment [TDT WG36]: COMMENT # 17B

11.2 The Commission will maintain an office within the Mohawk Territory of Kahnawà:ke.

11.3 The Commission will keep accurate records of the operations of the Commission, including but not limited to:

- (a) agenda and minutes of meetings of the Commission;
- (b) resolutions and decisions of the Commission;
- (c) certificates or other forms of authorization issued by the Commission;
- (d) fees collected by the Commission;
- (e) expenditures made by the Commission.

11.4 The Commission will determine which records will be accessible to Kanien'kehá:ka of Kahnawà:ke.

### **INSPECTORS**

11.5 The Commission will appoint one or more inspectors to ensure full compliance with the requirements of this Law.

Comment [TDT WG37]: COMMENT # 17C

### **ENFORCEMENT**

11.6 In addition to any other sanction that the Commission may impose under this Law, if the Commission, in its sole discretion determines that the holder of a certificate or

other form of authorization has breached any provision of this Law, the Commission may impose a fine for each instance of such breach of not less than One Thousand (\$1,000.00) Dollars and not more than Twenty Thousand (\$20,000.00) Dollars.

- 11.7 The Kahnawà:ke Peacekeepers have authority to investigate and initiate the appropriate proceedings for any breach of this Law that lies outside the scope of the Commission's mandate to **remedy**.

Comment [TDT WG38]: COMMENT # 3B

### **JUDICIAL PROCESS**

- 11.8 The Court of Kahnawà:ke has sole and exclusive jurisdiction to hear and decide any charges laid by the Kahnawà:ke Peacekeepers for a breach of this **Law**.

Comment [TDT WG39]: COMMENT # 21B

### **COMING INTO FORCE**

- 11.9 This Law comes into force on the date that it is adopted by the Kanien'kehá:ka of Kahnawà:ke.
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